

ASHLAND/NSP LAKEFRONT SITE PRP INVESTIGATION REPORT

June 20, 2006

Prepared for:

**Northern States Power Company,
a Wisconsin corporation, d/b/a Xcel Energy,
a subsidiary of Xcel Energy Inc.**



1.0 EXECUTIVE SUMMARY

In November of 2003, Northern States Power Company, a Wisconsin corporation, d/b/a Xcel Energy ("NSPW") entered into an Administrative Order on Consent (CERCLA Docket No. V-W-04-c-764) with the United States Environmental Protection Agency ("USEPA") requiring NSPW to develop and implement a Remedial Investigation/Feasibility Study ("RI/FS") for the Ashland/NSP Lakefront Site ("the Site"). On February 18, 2004, URS Corporation, NSPW's consultant, submitted to USEPA its RI/FS Work Plan Rev. 01 and associated planning documents. In USEPA's July 2004 comments on NSPW's RI/FS Work Plan Rev. 01¹, USEPA wrote the following:

"Xcel Energy and WDNR are in disagreement concerning certain historical facts regarding potentially responsible parties ("PRPs")/ wood treatment and the original sources of the contaminants found on the site. EPA has not fully evaluated the data, historical information or historical investigation work with regard to the existence or non-existence of wood treatment on the property as of this date. Additional data collected pursuant to the Work Plan is expected to provide necessary information to ascertain different waste streams ... EPA requests that Xcel Energy provide a separate report to EPA on its PRP search efforts to date. In phase with this project, and through a separate track, EPA will evaluate Xcel Energy's information and findings and the current and new data set to assess other potentially responsible parties. If EPA deems it appropriate, additional PRPs will be issued notification pursuant to [CERCLA]."

This PRP Investigation Report ("Report") responds to USEPA's request. Its focus is on the Lakefront portion of the Site, generally including the area north of the bluff face to and including the near shore impacted sediments of Chequamegon Bay. (See Fig. 1) This area includes the man-made filled former lakebed portion of the Site referred to over the course of this project as Kreher Park.²

Since NSPW was first notified in 1994 by the Wisconsin Department of Natural Resources ("WDNR") of the contamination at the Site, NSPW has engaged in a comprehensive investigation³ into the historical activities at the Site. This investigation includes interviews of dozens of witnesses, compilation and review of historical documentation, preservation of witness testimony via depositions and development of forensic science during the course of environmental investigations. Many conclusions derived from this investigation are already set forth in the documents, reports and review comments listed at pages 2-13 to 2-20 of the Final RI/FS Work Plan and are part of the Administrative Record. Additionally, NSPW provided an evidentiary briefing to USEPA on February 1, 2000 and followed that briefing with information

¹ URS submitted RI/FS Work Plan Rev. 02 on October 18, 2004. USEPA conditionally approved NSPW's RI/FS Work Plan Rev. 02 on December 7, 2004. URS submitted the Final RI/FS Work Plan on February 1, 2005.

² As noted in NSPW's Final RI/FS Work Plan, reference to this portion of the Site as Kreher Park developed colloquially over the course of this project. Kreher Park consists of a swimming beach, a boat landing, an RV park and adjoining open space east of Prentice Avenue, lying to the east of the Site. To be consistent with past reports, as well as the USEPA approved Final RI/FS Work Plan, the portion of the Site to the west of Prentice Avenue, east of Ellis Avenue and north of the NSPW property is referred to in this Report as Kreher Park.

³ Although NSPW conducted a broad investigation, NSPW believes the City of Ashland and the Railroads identified herein may have further significant relevant information that would enhance the understanding of the Site's history and of the developments referred to herein. Indeed, in some instances NSPW has made reasoned assumptions about the City's or the Railroads' conduct or activities in relation to the Site based on all of the information gathered to date. This is all the more reason to request that USEPA issue those parties at minimum a comprehensive set of information requests pursuant to 42 U.S.C. § 9604(e).

provided to USEPA under cover letters dated February 10, 2000, March 31, 2000 and January 3, 2002⁴. In 2006, NSPW submitted an Environmental Forensic Investigation Final Report (Newfields 2006) and a draft Remedial Investigation Report (URS 2006). This Report compiles those conclusions with respect to sources of Site contamination other than the former manufactured gas plant ("MGP") and attaches or references much of the evidence in support.

NSPW concludes in this Report that:

- Schroeder Lumber Company owned and operated the Kreher Park portion of the Site from 1901 to 1939 and operated a sawmill, planing mill, lathmill, a wood treatment facility, oil houses, a kiln, a refuse burner and other appurtenances incidental to its wood processing facility which resulted in the actual release of hazardous substances at the Site.
- The City of Ashland currently owns a significant portion of Kreher Park where there is a release or threatened release of hazardous substances. As such, the City is the owner or operator of a vessel or facility for purposes of 42 USC § 9607(a). The City also caused or contributed to an actual release of hazardous substances at the Site by its activities and/or those of its residents and agents in (i) allowing the operation of an uncontrolled waste disposal location at the Site beginning in the 1940s; (ii) constructing in the 1950s and expanding in the 1970s the former wastewater treatment plant (WWTP) at the Site; (iii) transporting to and disposing contaminants at the Site excavated during the extension of Ellis Avenue in the mid-1980s; (iv) pumping contaminated water from the WWTP to the impacted portion of the Bay as late as 1997; and, (v) installing and maintaining surface and subsurface drainage features and transport mechanisms, such as open sewers and culverts, the result of which was to transmit contaminants from Kreher Park to the Bay.⁵ This conduct renders the City liable as an "arranger" pursuant to 42 USC § 9607(a)(3). Furthermore, as described below, the City is not eligible for any of CERCLA's statutory liability exemptions.
- Canadian National Railway Company/Soo Line Railroad. Canadian National Railway Company ("Canadian National") owns a portion of the Lakefront where there is a release of hazardous substances.⁶ As such, Canadian National is the owner or operator of a vessel or facility for purposes of 42 USC § 9607(a). This trackage was historically operated by not only Canadian National, but also the Minneapolis, St. Paul & Sault Ste. Marie Railway ("The Soo Line") via a lease dating to April 1, 1909. The Soo Line was eventually purchased by Canadian Pacific Railway Company, a subsidiary of Canadian Pacific Limited (collectively referred to as "Canadian Pacific"). Canadian Pacific and Canadian National are not affiliates and indeed are rival companies in the rail transit business. As such, there are potentially two railway companies -- Canadian National and Canadian Pacific -- with responsibility for historical discharges at the Site. Canadian National's predecessors' activities and The Soo Line Railroad's (i.e., Canadian Pacific) historical activities related to the operation of rail transport lines at the Site have caused releases of hazardous substances at the Site rendering the railroads liable parties pursuant to 42 USC § 9607(a). Furthermore, as described further below, the railroads are not eligible for any of CERCLA's statutory liability exemptions.

⁴ Complete copies of these submittals are available upon request.

⁵ NSPW has received limited cooperation from the City of Ashland and the railroads mentioned herein in identifying their respective roles in historical activities at the Site or in producing and providing documents regarding such issues. It comes as no surprise that a private party would receive far less cooperation in attempts to obtain information from another potentially responsible party ("PRP") than would the Agency given the statutory powers (and penalties) of CERCLA. To our knowledge, the parties referred to herein have never received a comprehensive information request issued pursuant to the power of CERCLA Sec. 104(e) and such a request seems reasonable under the circumstances.

⁶ In or about January of 2001, Wisconsin Central Transportation Corporation ("Wisconsin Central") merged into Canadian National via an Agreement and Plan of Merger. Wisconsin Central's trackage, now owned and controlled by parent Canadian National, included the property in Ashland and at the Lakefront. Wisconsin Central is hereinafter referred to as Canadian National.

Following review of this Report and its attachments, NSPW requests that USEPA:

- Generate a comprehensive list of information requests pursuant to its authority in 42 USC § 9604(e) to the City of Ashland, Canadian National Railroad and Soo Line/Canadian Pacific Railroad requiring those entities to provide information concerning their respective roles (or the roles of their agents, subsidiaries or predecessors) in the release or threatened release of hazardous substances at and from the Site;
- Based on the evidence presented in this report (as well as any additional information provided in response to the above information requests), determine that the Schroeder Lumber Company, the City of Ashland, Canadian National Railroad and Soo Line/Canadian Pacific Railroad are liable parties pursuant to 42 USC § 9607(a) and issue a letter to the authorized representative or registered agent of each communicating such determination and seeking their participation in negotiations to resolve such liabilities for all response costs incurred or to be incurred not inconsistent with the National Contingency Plan ("NCP");
- Determine that the conditions exist for the exercise of USEPA's enforcement discretion pursuant to the Orphan Share Reform Policy and/or pursuant to the common law and statutory concepts of divisible harm, equitable allocation and/or mixed funding (42 USC § 9622(b)(1)) with respect to Schroeder Lumber Company's (or any other nonviable PRP's) share of responsibility at the Site.

2.0 SITE HISTORY & OVERVIEW

A complete Site and regulatory/project history is contained in Sections 2.2 and 2.3 of the USEPA approved Final RI/FS Work Plan and is incorporated herein by this reference. The Final RI/FS Work Plan also contains a discussion of the conceptual site model for the Site in Section 3.4 and the impacted sediment area in Section 4.3.3.6.2, both of which are also incorporated herein by this reference. Lastly, a conceptual site model for the Site is contained in Section 6 of the recently submitted draft Remedial Investigation Report. (URS, 2006). A timeline of events salient to this Report is as follows and forms the framework for Section 3.0 of this report.

- 1854. First settlers arrive at Ashland⁷.
- 1856. Original Plat of Ashland registered at Superior Land Office.
- mid-late 1800's. Creation of the Kreher Park area begins by the filling of the original lakefront shoreline north from the bluff face. The southernmost boundary of the Kreher Park area of the Site is the railroad right of way that runs along what originally defined the Lake Superior shoreline. The filled Lakefront portion of the Site was occupied by the following series of wood processing facilities: Barber Mill (1884-1887); WR Sutherland Mill (1887-1897); Pope Mill (1897-1901); John Schroeder Lumber Company (1901-1939). Filling of the upland portion of the Kreher Park area continued after the cessation of sawmill operations during the City's ownership of the property.

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Looking Backward Moving Forward-Ashland, The Garland City of the Inland Seas, (Smith & Goc 1987).

- 1885-1947. NSPW's predecessors operated a MGP on NSPW property at the upper bluff. Carbureted water gas tar⁸ co-product is produced and stored on-site for uses such as energy recovery and sales to third parties.
- 1887. City of Ashland is incorporated.
- 1901-1951. An open sewer is depicted on Sanborn Fire Insurance ("Sanborn") maps emptying to the Bay on the western end of the Kreher Park Area of the Site.
- 1901-1939. Schroeder Lumber, by far the largest and longest tenured of the Lakefront lumber operations, operated a sawmill, lathmill, planing mill, wood treatment structure(s), kiln, oil houses, refuse burner and tramways at the Lakefront site.
- 1941. Ashland County takes title to Kreher Park after suing Schroeder Lumber Company for nonpayment of real estate taxes.
- 1942. City of Ashland takes title to Kreher Park from the County for \$1.00.
- 1940s. City of Ashland allows uncontrolled waste disposal at the Site.
- 1951-1952. City of Ashland constructs the (now former) WWTP and associated culvert transport mechanisms. Maps generated at the time of design and construction depict an area at Kreher Park as the "coal tar dump".
- 1973. City of Ashland expands the WWTP to include secondary treatment and phosphorous removal⁹.
- mid-1980s. City of Ashland transports to and disposes of tar contaminated soils at the Site excavated during the northern extension of Ellis Avenue at the west end of the Site.
- 1987. State of Wisconsin sues City of Ashland to stop decades of chronic annual discharge of millions of gallons of untreated sewage and wastewaters into Lake Superior¹⁰.

⁸ The Final RI/FS Work Plan used the term "coal tar" to generically describe MGP by-products, wood treatment residuals, creosote and other non-aqueous phase liquids (NAPL) associated with the Lakefront portion of the Site. However, the common use of the term "coal tar" in reference to black, viscous, odiferous organic liquid is frequently not applied correctly. There are four primary types of tar. These include wood tar, coal tar, carbureted water gas tar and oil gas tar. A quick summary follows:

- Wood tar is generated from the destructive distillation of wood. In simple terms, wood tar is formed when wood is cooked for a long time in an atmosphere with little to no oxygen (Brzezinski and Piotrowski 1993). When applied to uncooked wood, wood tar constituents such as terpenoid hydrocarbons and aromatics retard biological decay (Beck et al. 1993). The common use as a wood preservative was generally limited to the period before 1850 due to the costly production and intense resource utilization relative to more modern substitutes in the form of coal tar and carbureted water gas tar.
- Coal tar is generated by destructive distillation during which coal is heated under anoxic or suboxic conditions for the purpose of generating gas and coke (Morgan 1926). The tar byproduct primarily contains unsubstituted polycyclic aromatic hydrocarbons (PAHs) with two to six rings (Emsbo-Mattingly et al. 2003). Coal tars can also contain high concentrations of phenolic compounds that enhance its value as a wood preservative (Bateman 1922).
- Carbureted water gas tar is generated at a manufactured gas plant (MGP). It is primarily formed when the carburetion oil is catalytically cracked into smaller hydrocarbon gases (Bateman 1922; Morgan 1926). Like coal tar, carbureted water gas tar is primarily composed of two- to six-ring PAHs (Emsbo-Mattingly et al. 2003). While commonly used, carbureted water gas tar lacks phenolic constituents and the associated marginal benefits for wood preservation without further manipulation (Weiss 1916).
- Oil gas tar is also generated during the manufacture of gas and formed when petroleum is catalytically cracked into smaller hydrocarbons gases (Morgan, 1926). Accordingly, the oil gas tar is primarily composed of two- to six-ring PAHs (Emsbo-Mattingly et al. 2003). The differences between the oil gas and carbureted water gas processes generally exist in the plant design and type of petroleum cracked (Morgan 1926). Wood preservation studies indicated that oil gas tar was less effective than coal tar and carbureted water gas tar (Bateman 1922).

Collectively, these tars can be difficult to distinguish which, in part, explains the common use of the term "coal tar" when generally referring to any one or more of these four tar types. However, measurable chemical differences exist among these tars (Emsbo-Mattingly et al. 2003; Emsbo-Mattingly et al. 2006). In summary, "tar" is the correct term for referring to these materials generically while the specific type of tar should be used when the origin is known. In this case, given what is known about the subject MGP's operations, carbureted water gas tar is the most accurate tar reference for the Site.

⁹ DRAFT Environmental Impact Statement-Ashland Harbor, U.S. Army Corps of Engineers, (October 1974) (pg. 12); See also, Environmental Assessment, City of Ashland, Wisconsin Wastewater Treatment Plant Site (Northern Environmental, 1989) (pg. 15).

¹⁰ See, State v. City of Ashland, Ashland County Circuit Court Case No. 88-CV-9332. Lawsuit settled via stipulation requiring City to pay \$10,000 civil forfeiture and undertake sewer system upgrades and improvements.

- 1989. City of Ashland documents contamination at the Site¹¹.
- 1997. WDNR orders the City of Ashland to cease pumping impacted water from the Site to the Bay.

While Kreher Park was created by the filling mentioned above, the noted sawmill operations occupied the Lakefront for five decades¹². The largest and longest-tenured of these mills, the John Schroeder Lumber Company, was described as “one of the largest and best equipped mills in the North”¹³. Schroeder Lumber’s operations were extensive. Its articles of incorporation stated that one of the company’s business purposes was to “...*manufacture and deal in preservative chemicals, to own and operate wood preservation plants and plants for the manufacture and stillization of wood-byproducts, to explore and develop lands for gas, minerals, ores and oils, and to collect, work, use, and treat any timber and all forest and other vegetable products.*”

Schroeder Lumber’s Ashland plant was the company’s only wood processing facility where it operated a sawmill, lath mill and planing mill. Details of the Schroeder Lumber operation, including the location of the operation’s features, were obtained from interviews and depositions of eye witnesses from the time, discussions with John Schroeder’s biographer and review of historical photographs and documents, newspaper accounts, aerial photographs and Sanborn maps¹⁴. As described in greater detail below, this information collectively indicates that an above-ground structure or structures used for creosote/tar dipping or treatment of railroad ties, telephone poles, commercial dock pilings and the like was located in the area south of the former WWTP. Additionally, oil houses were a part of Schroeder Lumber’s operations and were depicted on historic Sanborn maps in the east central part of Kreher Park. Residual contamination from Schroeder Lumber’s operations appears to have been transported to the Bay by the combination of the transport mechanisms installed by the City and during the City’s construction activities associated with the former WWTP.

The City of Ashland’s waste disposal practices in the 1800s and early 1900s consisted of open dumping of waste materials directly into the bay of Lake Superior or into the ravines that transected the lakefront area running south to north. Evidence of these historic ravines includes historic Sanborn maps, photos, witness recollections and a 1890 lithographic depiction of the Ashland Lakefront.¹⁵

In addition, the following quotations appear in the publication Sanitary Survey of the City of Ashland in the State of Wisconsin, by Wesley N. Warvi, UW Medical School, January 1937.

“Ashland sewage system is very inadequate. It is simply a means of collection and disposal into the bay with no method of treatment.” (pg. 54)

“Those that live in some of the ravines are the most careless and dump their waste water a short distance from their homes. There is a section in the city health ordinance forbidding this practice but it is evidently not strictly enforced.” (pg. 72)

See also, Looking Backward-Moving Forward, Ashland, the Garland City of the Inland Seas, (Smith & Goc 1987) (at pg. 26).

¹¹ Environmental Assessment, City of Ashland, Wisconsin Wastewater Treatment Plant Site (Northern Environmental, 1989) (pg. 15).

¹² The Lake Superior Country in History and In Story, (Burnham 1930, 1974) (pg. 225-228).

¹³ Cutting Across Time, Bell, 1999 (pg. 68).

¹⁴ Sanborn maps dated 1890, 1895, 1901, 1909, 1923, 1946, and 1951 were reviewed and copies are attached at Exhibit 1.

¹⁵ A copy of the 1890 lithograph is attached at Exhibit 2.

Following Schroeder Lumber's tenure, Ashland County acquired (in 1941) and transferred (in 1942) title to Kreher Park to the City of Ashland, which has since owned the Site¹⁶. During the 1940's and 50's, the City operated an uncontrolled waste disposal facility in the northwest portion of the park area. Beginning in 1951, the WWTP was constructed and operated as the City's sewage treatment facility until 1989. The City constructed a significant expansion of the facility in 1973. Construction details are observable via a series of engineering "as built" drawings.

The initial construction of the WWTP appears to have led to the City constructing a culvert transmitting wood treatment residuals from the Site - at an area labeled by the City's engineers as "Coal Tar Dump" - to the Bay inlet. This discharge point coincides with the most severely impacted near-shore sediments. Additionally, Sanborn maps depict the presence of an open sewer likely maintained by the City in the first half of the 20th century on the western end of Kreher Park trending south to north. (See Sanborn maps from 1901-1951 at Exhibit 1).

During the mid-1980's, the northern extension of Ellis Avenue was completed which created more usable land to permit establishment of a marina with full service boat slips, fuel and dock facilities and a ship store. During excavations associated with that project, the City encountered tar contaminated soils which it excavated, loaded, transported to and dumped at the Kreher Park location.

In 1988, the State of Wisconsin and an activist group, Wisconsin's Environmental Decade, filed separate lawsuits against the City of Ashland in an effort to stop decades of uncontrolled discharges of millions of gallons of untreated sewage and wastewater directly into Chequamegon Bay. These cases were later consolidated and settled via stipulation¹⁷ requiring the City to conduct significant upgrades and improvements to its sewage and stormwater handling and treatment systems.

In 1989, during exploratory work to expand the WWTP, soil and groundwater contaminated with creosote/tar compounds were documented¹⁸. The City notified WDNR, subsequently closed the WWTP, and located a new treatment facility a few miles away to the southeast.¹⁹ After closure of the WWTP, the City operated a sump pump to periodically discharge contaminated water infiltrating the structure's basement into the impacted sediments area of the Bay. WDNR ordered cessation of this discharge of hazardous substances in June of 1997.

Canadian National (and its predecessors) and Soo Line/Canadian Pacific Railroad owned and operated a rail corridor along the base of the bluff face at the Site, as well as rail sidings that serviced the Lakefront industrial area, including Schroeder Lumber. These rail lines and sidings are depicted on historic Sanborn maps and recalled by eye witnesses. Eye witness accounts describe historic railroad activities as transporting and releasing tar, oils and other hazardous substances at the Site and in the course of servicing the lumber mill operations.

Many of the Site features described in this section are depicted at Figures 2 and 3.

¹⁶ The City conducted a land assembly in 1986 to obtain control over all parcels along the Lakefront portion of the Site. Specifically, the City acquired parcels owned by Northland College, which the college had obtained in 1982. This land assembly is depicted on the title report and summary attached at Exhibit 3.

¹⁷ See, State v. City of Ashland, Ashland County Circuit Court Case No. 88-CV-9332.

¹⁸ Environmental Assessment, City of Ashland, Wisconsin Wastewater Treatment Plant Site (Northern Environmental, 1989).

¹⁹ In the 1989 Facilities Plan Amendment for the Ashland WWTP, the cost of expanding the plant at the contaminated site is identified as a motivating factor in the decision to relocate. The document provides: "Creosote pit on site makes expansion costs with cleanup even more costly." WDNR's October 21, 1991 conditional approval confirms that: "A portion of the proposed project as submitted has been deleted. The deleted portion of the project would have been constructed in or near an area that was previously used for the disposal of waste wood from a wood preserving operation. Concerns about the handling of hazardous materials that may be encountered is the reason for the deletion."

3.0 CONTAMINANT SOURCES OTHER THAN THE MGP

The contaminant sources noted above will each be discussed in greater detail in this section of the Report²⁰. However, to understand why these other contributing sources of contamination to the Site are important, one must first understand certain important facts about the MGP and the relationship of those facts to the overall mass of contaminants present at the Site.

3.1 The MGP

As part of its historic investigation, NSPW reviewed extensive records concerning the operation of the former MGP. These documents included gas production records from the Brown's Directories of Gas Statistics, Wisconsin Railroad Commission Operating Reports and annual reports of NSPW predecessor companies that operated the MGP. NSPW engaged consultants to utilize these sources of historic MGP operational data to estimate the quantity of gas and co-product tar produced by the MGP during its operation. Additionally, the same consultants were asked to estimate the volume of residual tar product in the environment based on available environmental data. Both consultants were asked to fully document their respective methodologies and conclusions. Conclusions from MGP tar production calculations were compared with the volumetric estimates of contaminant mass in the environment. Major conclusions from this investigation and assessment include the following²¹:

²⁰ This Report does not fully address all other potential industrial sources of contamination (PAHs and BETX, etc.) to the Bay sediments given this port's history as an industrial shipping location. However, it bears mention that, given that this Site includes impacted sediments accumulated over decades of lakefront industrial activities, it is likely that the sediments contain impacts from upland sources and shipping activities wholly unrelated to the specific sources addressed herein. The fact that Superfund sediment sites are complex and often involve continuing impacts from sources outside the site boundaries was acknowledged in the recently issued Contaminated Sediment Remediation Guidance for Hazardous Waste Sites. (OSWER 9355.0-85 DRAFT January 2005) (at p. 2-20, 2-21). The U.S. Army Corps of Engineers note with respect to the Ashland Harbor that: "Ships and recreational boats contribute oils, greases, organic material, nutrients and heavy metals to the waters of the harbor. These materials can settle to the bottom and become mixed with and incorporated into the bottom sediment." See, DRAFT Environmental Impact Statement, Ashland Harbor Operation and Maintenance Activities, Ashland County, Wisconsin; U.S. Army Corps of Engineers, (October 1974) (pg. 12). Additionally, and as an example of the harbor's industrial activities, the publication Souvenir of Ashland County, Wisconsin (Stiles 1904) recorded the following facts:

"The Lake Commerce of the City of Ashland alone foots (sic) up \$25,000,000 annually. Here, 2,500 vessels from Montreal, Oswego, Buffalo, Cleveland and Chicago bring coal and merchandise, returning iron ore and lumber and other products of the mines and farms. In 1902, Ashland shipped 3,553,919 tons of iron ore from the three ore docks from the Chicago and Northwestern and Wisconsin Central Railway Companies. Skirting the bay front are half a dozen large sawmills, three or four coal docks, one merchandise dock, a pulp mill and one of largest plants in the United States for the manufacture of pit iron, wood alcohol and acetic acid."

Further:

"The seven commercial dock facilities at the Port of Ashland include three coal receiving piers and warfs, three ore shipping terminals, and one wharf for handling rafted pulpwood and saw logs. ... The waterfront terminals at Ashland are served by the Chicago and Northwestern Railway, the Minneapolis, St. Paul and Sault Ste. Marie Railroad Company (Soo Line), and the Chicago, St. Paul, Minneapolis & Omaha Railway. During the 5-year period 1944-1948, inclusive, the total water-borne commerce at the port of Ashland amounted to 30,643,198 tons, consisting primarily of movements of iron ore, coal and pulp wood." The Ports of Duluth-Superior, Minnesota and Wisconsin, Two Harbors, Minnesota and Ashland, Wisconsin, U.S. Army Corps of Engineer (1949) (pg. 186-187).

²¹ See, "Gas and Tar Production and Release Estimates, Former MGP-Ashland," (Dames & Moore, December 4, 1998); "Volumetric Estimates of DNAPL (Coal Tar) in the Environment and Total Tar Production From the NSP Former MGP Facility in Ashland, Wisconsin," (GTI, November 1, 2000); "Revised Estimation of Tar (DNAPL) in the Bay Area Sediments, Ashland Lakefront Site, Ashland, Wisconsin" (GTI, August 3, 2001); complete copies of which are attached at Exhibit 4.

- The former MGP operated predominantly as a manufacturer of carbureted water gas between 1885 and 1947 (62 years)²². It was a small facility (maximum daily capacity ranged from 90,000-250,000 cubic feet) and the data indicate it operated at less than 50% of its designed capacity based on gas production data located for 74% of its operating life.
- There is some conflicting information regarding coal gas and carbureted water gas production during the 1917 ledger entries in the records of Ashland Light, Power and Street Railway Company, a predecessor to NSPW. However, all other company records indicate carbureted water gas production only.²³
- Between 1923 and 1947, only the carbureted water gas process was used at the facility. After 1947, the carbureted water gas process was retired in favor of liquid petroleum (propane).²⁴
- During the entire time gas was manufactured, tars were produced as a normal co-product of the operation. At this time nationally, tar was a valuable product and most MGPs sold greater than 70% of the tar they produced. Tar had multiple uses -- as a sealant, as a road building material, as a wood treatment preservative and in the perfume and pharmaceutical industries, to name just a few -- and fetched a price as high as \$0.15 a gallon at the turn of the century. Even at these prices, tar was still on average approximately \$0.11 a gallon cheaper than refined creosote for wood treatment, making it an economically attractive alternative wood treatment/preservative compound. In fact, tar was in such demand that in the early 1900s more than 50% of all tar/creosote used in wood treatment in the United States was imported. Indeed, during this same timeframe, 70% of all water gas tars produced from MGPs was used in the wood treatment field²⁵. NSPW's research indicates that the MGP in Ashland was no different, beneficially reusing its tar by selling it as a product to third-parties and burning it on-site for energy recovery. It is inconsistent with logic and historical fact to assume that the MGP's tar co-product was discharged freely to the environment without efforts to collect, store and sell. Indeed, such a conclusion would also be inconsistent with the obligation of a publicly regulated utility to prudently manage its operations.
- Calculations estimating gas and tar production rendered by Dames & Moore/URS were reviewed by the Gas Technology Institute ("GTI"), one of the nation's premiere scientific resources on MGP operations and tar analysis. GTI's conclusions are contained in its reports of November 1, 2000 and August 3, 2001. See, Exhibit 4. GTI concludes that the MGP produced approximately

²² The carbureted water gas process was invented by Thaddeus Lowe in 1874. Carbureted water gas is made by passing steam through incandescent hot coke and adding carburetion oil to enrich the water gas produced. Carbureted water gas is manufactured in 3 round vessels -- the generator, carburettor and superheater. (Story of Gas, p. 44-45). Carbureted water gas was amenable to the same purification process as coal gas. However, less coke, tar and ammonia production were characteristic of water gas production as compared with coal gas production. (Survey of Town Gas and By Product Production and Locations in the U.S. (1889-1950), Radian Corporation, Feb. 1985).

²³ Brown's Directories include "oil" between 1912 and 1916 and "oil and coal" between 1917 and 1920 as the gas production process. This conflicts with the company operational report information which, with the exception of a small amount of coal gas production during 1917, indicates water gas production only.

²⁴ See September 4, 1998 Affidavit of Vernon J. Zak (deceased), May 1999 WDNR Interview Summary Form of V. Zak and July 31, 1995 WDNR phone contact memorandum at Exhibit 5.

²⁵ The Story of Gas, Committee on Education of Gas Company Employees, American Gas Association (1925); Handbook on Manufactured Gas Plant Sites, Environmental Research and Technology, Inc. and Koppers Company, Inc. (1984); Brown's Directories (1936-1939); LSDP Operating Reports (1923-1948); L. Gjovik, retired, U.S. Forest Products Laboratory, Madison, Wisconsin (1999); Petroleum Engineering Handbook, Society of Petroleum Engineers (1987); Survey of Tar Waste Disposal and Locations of Town Gas Producers, Radian Corporation (Draft 1984) ; Survey of Town Gas and Biprodukt Production and Locations in U.S., 1889-1950, Radian Corporation (1985); U.S. Production of Manufactured Gases: USEPA (1988).

666,100 gallons of tar/NAPL²⁶ during its operating life.

Of that total volume of tar co-product produced, NSPW can account for nearly one half (i.e., approximately 280,000 gallons) by considering amounts documented as being sold to third-parties (46,800 gals.)²⁷, burned on-site for energy recovery (11,200 gals.), removed from a tar storage structure in 1986 (est. 7,000 gals.) or estimated to be present in the environment at and beneath NSPW's property (est. 48,000 gallons in Ravine Fill aquifer) and in the Copper Falls Aquifer (est. 167,000 gallons). See, Exhibit 4.

GTI supported NSPW's prior estimates that nearly 2.0 million gallons of NAPL - GTI calculated 2.3 million gallons - are likely present in the environment, dwarfing the volume of NAPL produced by the MGP by more than three times. These calculations by themselves confirm the presence of additional sources of tar contaminants.²⁸ See, Exhibit 4.

- Forensic analysis also supports multiple sources of hazardous substances at the Site. NSPW engaged GTI to also analyze and compare tar-like contaminant samples obtained from distinct areas of the Site for evidence of chemical fingerprint distinction and to reach whatever scientific conclusions could be drawn from these analyses. GTI's studies began in 1999 and concluded in August 2002. GTI concluded from its studies that:²⁹

(1) Tars found on the NSPW property and originating from the MGP are distinctly different from the tars found at the Kreher Park and Bay Sediments areas of the Site, based on chemical fingerprinting;

(2) The tars found at Kreher Park in the area of Schroeder Lumber's former operations are commingled with a substantial fraction of middle-weight petroleum distillate in a proportion that is coincident with USEPA-defined wood treatment formulations typical of the late 1800s to mid-1930s. This proportionate middle-weight petroleum distillate fraction is not present in forensic tar samples taken from atop the bluff on NSPW property. This suggests that the tar product was manipulated to result in a chemical consistent with USEPA-defined wood treatment formulations typical of the era; and

(3) The amount of tar product residual still present in the Bay sediments alone is nearly four times the amount of tar ever produced by the MGP. When one considers that NSPW can

²⁶ GTI's evaluation discussed DNAPL because the greatest fraction of free-product residual is measured in this form. However, because other fractions (light non-aqueous phase liquids-LNAPL) have been measured at the site, tar/free-product is referenced in this Report by the comprehensive term NAPL.

²⁷ This is a conservative analysis based upon actual documentation reviewed. National averages reported for the time suggest that approximately 70% of all tars were sold for reuse.

²⁸ For purposes of this calculation, GTI used a "benchmark" of any sample yielding greater than 300 mg/kg (ppm) of total PAHs as indicative of the presence of free-product. GTI selected the value of 300 ppm as representative of free-phase tar based on similar assumptions used by researchers with a joint task force of four federal agencies (USEPA, US Air Force, DOE and NASA) known as the Interagency DNAPL Consortium ("IDC"). The IDC has been working cooperatively since 1998 on challenges associated with the characterization and remediation of DNAPL compounds. GTI representatives attended an IDC event in January 2000 at a Florida facility where the value of 300 ppm was consistently used to define free-phase DNAPL at the symposium. At the Site, recovered sediment samples consisted of soils containing sheens and free-product visible on soil surfaces when cores were opened in the field. GTI showed that the majority of free-product in the environment is found in these sediments at depths of up to 10 feet.

²⁹ Comparative Analysis of NAPL Residues from the NSP Ashland Former MGP Site and the Ashland Lakefront Property (Kreher Park), IGT (now GTI), (March 2000 and Addenda).

account for nearly one-half of the tar produced by the MGP, as described above, the “unaccounted for” tar produced by the MGP is at most 1/6 of the volume of NAPL estimated to be present in the Bay sediments.

- In addition to the forensic analyses performed by GTI, samples collected during site investigation work conducted in 2005 were subjected to environmental forensic analysis by Newfields Environmental Forensics Practice, LLC of Rockland, Massachusetts (“Newfields”). See, Environmental Forensic Investigation at the Ashland Lakefront Site in Ashland, Wisconsin, Newfields (February 2006). Newfields environmental forensic investigation compared the hydrocarbon composition of tar residues collected in various subsurface soil samples from the Kreher Park area to sediment samples from the Bay area and various reference stations. Forensic analyses were performed on samples secured from test pits excavated near the former uncontrolled solid waste disposal area, the former “Coal Tar Dump” area and the former WWTP area. A complete description of the means and methods, analyses and results can be found in the Newfields report. In summary, Newfields concluded that there existed strong evidence in favor of the existence of historical wood preservation activities conducted at Kreher Park, including concentrations of non-MGP derived wood preserving agents such as pentachlorophenol (“PCP”), phenols, diesel range petroleum distillates and creosote. The concentration of PCP and phenols increased proportionately with tar-derived PAHs correlating with the historical practice of blending phenolic compounds with tar prior to use as wood treatment. Tar impregnated wood was also encountered during RI test pit activity in 2005 and PAH levels at Kreher Park are an order of magnitude or more elevated than PAH levels detected from samples retrieved from the area of the MGP.

Understanding the context of the historic MGP in relation to the contaminants present in the environment is important as one weighs the evidence of other contributing sources of hazardous substances to the Site. When this physical evidence is combined with the evidence presented below concerning Schroeder Lumber’s historic wood treatment operations, the City of Ashland’s conduct and that of the Railroads, the conclusions in Section 1.0 become self-evident.

3.2 Schroeder Lumber Company

3.2.1 Schroeder’s Extensive Operations³⁰

Ashland, Wisconsin was once a bustling industrial port³¹. Natural resource extraction -- including the mining and logging industries -- lead to Ashland being one of Wisconsin’s most populous cities (14,000) at the turn of the 20th century. Sawmill/wood processing activities dominated the Ashland Lakeshore from 1884 until the late 1930s. The Site was used as a lumbering hub for decades by several now-defunct lumbering companies, including the most dominant -- the Schroeder Lumber Company.

³⁰ Figures 4-8 represent a compilation of features shown on the Sanborn maps from 1895-1946 superimposed on an aerial photograph from 1939 where the Schroeder mill is evident.

³¹ See, The Lake Superior Country in History and In Story, (Burnham 1930, 1974); Souvenir of Ashland County, Wisconsin (Stiles, 1904); Looking Backward, Moving Forward – Ashland, The Garland City of the Inland Seas (Smith & Goc 1987); The Ports of Duluth-Superior, Minnesota and Wisconsin, Two Harbors, Minnesota and Ashland, Wisconsin, U.S. Army Corps of Engineers (1949); Cutting Across Time, (Bell) (1999).

Schroeder Lumber occupied the Site from 1901³² until almost 1940³³ and was one of the largest and best-equipped mills in the North. Schroeder Lumber harvested and processed an average of 50,000,000 board feet of timber per year and employed hundreds of people at the Ashland mill site operating 24 hours a day during season. Schroeder Lumber was already a million-dollar operation by 1901. Schroeder harvested wood from lands it owned or leased and from lumber camps established in Minnesota, Canada and the Apostle Islands and operated a shipping fleet to both raft logs to its Ashland mill and to ship finished product for sale.

Schroeder Lumber built its own railroad system on the Apostle Islands to facilitate logging and released steers and hogs on the islands to supply meat for the camps. At Ashland, Schroeder Lumber operated a sawmill, lath mill, planing mill and wood treatment facility at the Site, which served as the Company's only wood processing facility. The Company's operations were extensive and included oil houses (perhaps to store fuel to operate kiln dryers or to store distillates to combine with tar for wood treatment), a refuse burner and heated wood treatment. Schroeder Lumber would pipe steam into the Bay to combat icing. The sawmill was located at the same location of the now former WWTP, immediately adjacent to the Bay inlet.³⁴ (See Figures 4-8 and Sanborn maps at Tab 1).

3.2.2 Schroeder's Wood Treatment

Schroeder Lumber produced finished lumber and treated railroad ties, commercial dock pilings, roof shingles and cedar posts. Schroeder Lumber also manufactured and drove piles for commercial dock construction - piles that would have to be treated to avoid the rotting effects of water.³⁵ Compelling direct and circumstantial evidence indicates that Schroeder Lumber conducted extensive wood treatment activities across the Site which contributed to the contamination now detected. (Newfields, 2006). The Company's Articles of Incorporation³⁶ state that one of Schroeder Lumber's primary business functions was:

"To manufacture and deal in preservative chemicals, to own and operate wood preservation plants and plants for the manufacture and stillization of wood by-products"

And

"To...treat any lumber and all forest...products."

Eyewitness accounts and deposition testimony describe the wood treatment operations and numerous anecdotal accounts indicate that wood treatment activities occurred. Eyewitnesses recalled that Schroeder Lumber treated railroad ties and poles in an aboveground structure located on the Kreher Park portion of the Site. The eyewitnesses testified that they saw wood treatment occurring in the same general area that engineering drawings from the 1950's label the presence of a so-called "Coal Tar Dump". See, Figure 9.

³² See, Exhibit 3, Trustee Deed from Wilber G. Davis, Trustee of the Pope Lumber Company, to John Schroeder Lumber Company in consideration for \$30,000, dated January 10, 1901, recorded on February 28, 1901, Doc. No. X13566, Vol. 73, Pg. 23, See, Exhibit 3, See also, The Ashland News, (01/10/1901), The Ashland Daily Press, (01/10/1901) Exhibit 6.

³³ Quit Claim Deed from John Schroeder Lumber Company to Ashland County dated December 6, 1939, recorded on December 21, 1939, Doc. No. X103493, Vol. 156, Pg. 317; See also, The Ashland Daily Press, (02/26/1940) Exhibit 7.

³⁴ Bell, M., Cutting Across Time (1999); 1890 Lithograph; Sanborn maps; City Directories 1897-1950; Biographer Mary E. Bell; Adams, Commercial History of Wisconsin; White, A History of John Schroeder and The John Schroeder Lumber Company (1990); Burnham, The Lake Superior Country in History and in Story, (1974 Browzer Books)(#000039-43); The Ashland News, (11/04/1901); (11/14/1901); The Ashland Daily Press, (01/10/1901); (01/11/1901); (06/27/1916); (09/03/1919); (07/12/1921); (06/06/1931); Ashland County v. John Schroeder Lumber Company, Ashland County Circuit Court (1939); Alex Ledin et al v. John Schroeder Lumber Company, Ashland County Circuit Court (1915); Raff, Pioneers in the Wilderness, (1981).

³⁵ The Ashland Daily Press, (06/27/1916).

³⁶ Amendment to John Schroeder Lumber Company Articles of Incorporation, dated October 25, 1920.

Those who did not directly witness wood treatment recalled both the same type of structure with the same contents in the same general location as described by eyewitnesses and also reported seeing stacks of blackened railroad ties nearby³⁷. In addition, it was anecdotally well known in Ashland that Schroeder Lumber treated wood in a pit or structure at the area now known as Kreher Park. Attached at Exhibit 8 is a witness-by-witness summary of those recollections as well as copies of deposition transcripts³⁸, affidavits and WDNR interview summaries that support this conclusion. Also, witness recollections are compiled and depicted at Figure 9.

Additionally, WDNR's own documentation generated throughout its investigation of the Site supports this conclusion. WDNR's April 19, 1991 document titled "Case Summary Comments for ERP Scoring: Ashland WWTP" referred to the "[d]ocumented dumping of creosote-treated wood preservatives" at the Site confirming the anecdotal references to historic wood treatment at the Lakefront. The WDNR document provides:

"Data from geotechnical and environmental borings indicate creosote impacted wood waste layer of variable thickness at existing site. ... Prior to 1920s, site occupied by Schrader (sic) Sawmill. It manufactured RR ties and timbers for docks – treated them with creosote in creosote pit located to south of site."

On August 21, 1991, WDNR's Project Manager wrote to the City of Ashland's Water Utility Director to comment on a proposed sewer extension project in the area. WDNR wrote:

"As you know, the proposed sewer extension is going to be constructed near or through an area that was used for the disposal of wood waste from a wood preserving operation.... It looks as though there will still be some wood waste encountered with the proposed route of the sewer. If treated wood waste, product, or contaminated soil is encountered..."

Furthermore, no less than three environmental consultants working for WDNR and the City have also concluded that such activities occurred based on the historic evidence. For example, Short Elliot Hendrickson, Inc. ("SEH"), a WDNR consultant, wrote the following:

"SEH believes that former wood treatment activities may have occurred at the Ashland Lakefront Property, and at least a portion of the subsurface contamination may have resulted from wood treatment activities."

³⁷ See, Fig. 9. The eye witness recollections are extremely consistent as to the location of Schroeder's wood treatment operations, although certain witnesses suggested that wood treatment occurred east of Prentice Avenue (as opposed to west of Prentice Avenue at the Site). NSPW believes this suggests the potential historic presence of more than one area of wood treatment by Schroeder at the Site. Given the duration and reach of Schroeder's activities, it is likely that operations may have moved across the Lakefront property. Despite the recollections of wood treatment east of Prentice Avenue, no significant environmental impacts were discovered in that area. See, Phase I Environmental Site Assessment - Former Schroeder Lumber/Kreher Park Property (MSA, October 2001); Final Phase II ESA Work Plan - Former Schroeder Lumber/Kreher Park Property (MSA, December 2001); Phase II Environmental Site Assessment Report - Former Schroeder Lumber/Kreher Park Property (MSA, June 2002).

³⁸ Witnesses were deposed in three contexts. First, on October 16, 2001, certain witnesses were deposed in connection with a petition to preserve testimony in anticipation of unavailability. Second, certain witnesses were also deposed in connection with a personal injury claim filed against NSPW by a former city employee (and his wife) who worked at the former WWTP. That case was captioned *George F. Grosjean, et al. v. NSPW*, Ashland County Case No. 02-CV-150 and is no longer pending. Third, certain witnesses were deposed in connection with the pending cases captioned *St. Paul Mercury Insurance Company, et al. v. Northern States Power Company, et al.*, Hennepin County, Minnesota Case No. 03-017809 and *NSP v. Admiral Insurance Company*, Eau Claire County, Wisconsin Court Case No. 03-CV-753.

“SEH identified three potential sources of contamination at the Ashland Lakefront property: possible wood treatment activities, potential contamination from the upgradient MGP, and historic filling activities at the Site.”

“A number of individuals interviewed recall creosote wood treatment operations historically occurring in the vicinity of the Site.”

Comprehensive Environmental Investigation Report, (SEH May 1997), (pp. 30, 19, 18).
Remedial Action Options Feasibility Study, (SEH December 1998) (p. 4).

MSA Professional Services (“MSA”) concludes from its review of aerial photographs including the 1939 aerial photograph that:

“The Schroeder Lumber Co. mill to the west is visible along with several railcars. A pit appears to be present on the Schroeder Lumber Co. property.”

Phase I ESA, (MSA October 2001) (Page 7).

“The Schroeder Mill located on the property to the west of Prentice Avenue, was originally known as the Barber Mill and was built in 1884. The Schroder (sic) Mill was subsequently sold to Sutherland, then Pope, and then John Schroder Co. of Milwaukee. According to interviewees, wood treatment operations were conducted on the subject property in the 1930s.”

Phase I ESA, (MSA October 2001) (Page 15).

“A coal tar pit and/or creosote wood treating operation was reportedly in operation at the Schroeder Sawmill located immediately west of the property in the 1920 or 1930s. The wood preservative used in the treatment process was reportedly obtained from a former manufactured gas plant located to the southwest of the subject property.”

Phase I ESA, (MSA October 2001) (Page 16).

“A coal tar pit and/or creosote wood treating operation was reportedly in operation at the Ashland Lakefront site located immediately west of the property in the 1920 or 1930s. The extent of the groundwater contamination originating from the Ashland Lakefront site has not been determined to the east of Prentice Avenue. Railroad tank cars were reportedly used to store and/or transport the coal tar on the adjacent Schroeder Sawmill property. It is not known whether spillage may have resulted in contamination of the soil and groundwater along the railroad spurs that may have brought lumber to the site.”

Phase I ESA, (MSA October 2001) (Page 23).

In 1989, Northern Environmental recounted the following:

“Prior to the 1920s, the current WWTP facility site was occupied by the Schrader (sic) Sawmill. The Sawmill was reported to

have manufactured railroad ties and timbers for dock construction. The railroad ties were treated in a creosote pit reportedly located to the south of the present WWTP facility. It has (sic) not known whether the creosote pit was operated by the Schrader (sic) Sawmill or one of the various railroad companies in the area.”

Environmental Assessment, City of Ashland, Wisconsin Wastewater Treatment Plant Site (Northern Environmental, 1989) (pg. 15).

USEPA’s Hazard Ranking System (“HRS”) scoring packet also refers to the historic wood treatment activities as a source of contaminants at the Site. USEPA’s NPL Characteristics Data Collection Form for the Site identifies former “wood preserving/treatment” as an activity at least partly responsible for the principal contamination at the Site. See, Ashland/Northern States Power Lakefront NPL Characteristics Data Collection Form at page 4. Additionally, “Wood/Lumber Treatment” is identified as a source of waste disposal resulting in the principal site contaminants. See Id. at pg. 6.

That the treatment of railroad ties, poles, piling for commercial docks and potentially other wood products occurred at the Schroeder Lumber operation is beyond question. This historical fact helps explain why there is present in the environment nearly four times the amount of tar/NAPL as was ever produced by the MGP – even when one ignores the evidence accounting for MGP tar being recovered, burned or sold to third-parties. The wood treatment also explains the detected presence of a middle-weight petroleum distillate in forensic tar samples secured from Kreher Park and the sediments in a proportion that is coincident with ratios USEPA uses to define wood treatment formulations from that era. Wood treatment also explains important differences detected following forensic analyses from among samples collected in test pits and sediments across the Site (Newfields, 2006) and the fact that PAHs are detected at Kreher Park at least an order of magnitude higher than PAH readings at the MGP site. (URS, 2006).

Given this disparity in volume, the numerous accounts of wood treatment, the volume of wood processed by Schroeder and the national practice of wood treatment, Schroeder likely imported (via ship or rail) tar or refined creosote to support its operations. Additionally, potential transactions for the MGP’s tar product may have also occurred given that tar was sold from the MGP to other third-parties, given its value as a preservative at the turn of the century and given the proximity from producer (the MGP) to potential consumer (Schroeder Lumber). Whether Schroeder Lumber imported (explaining the additional volume) or whether Schroeder Lumber purchased tar product from the MGP for use in its wood preservation operations or both, the conclusion that a share of Site responsibility rightly rests with Schroeder Lumber is beyond dispute.

3.3 City of Ashland

3.3.1 City’s Waste Disposal

As described above, the bases for the City of Ashland’s liability are its status as an owner of the Site, as well as its activities that caused or contributed to releases of hazardous substances at the Site. Ashland County acquired the Kreher Park Lakefront Site via tax delinquency foreclosure in 1939 after it sued the Schroeder Lumber Company.³⁹ The City of Ashland then acquired the property from the County for \$1.00.⁴⁰

During the City’s ownership in the 1940s and 50s, the Site was used as an uncontrolled

³⁹ Ashland County v. John Schroeder Lumber Co., Ashland Co. Cir. Ct. (1939); See also, note 31, above.

⁴⁰ See Exhibit 3, Quit Claim Deed from Ashland County to City of Ashland dated March 12, 1942 recorded March 13, 1942, Doc. No. X107607, Vol. 168, Pg. 52.

waste disposal site where open and uncontrolled dumping occurred. WDNR documents refer to this area as an old landfill. Fill materials at the Site contain solid, municipal, construction and demolition and industrial waste materials unrelated to the operation of the MGP. Among others, the following witnesses recall such disposal activities:

Gordon Parent
Ray Parent
Joe Kabasa, Jr.
Ron Nye
Kenneth Veno
John Walters

As above with respect to the operations of Schroeder Lumber, attached at Exhibit 8 is a summary of those witnesses' recollections as well as copies of affidavits and deposition transcripts that support this conclusion. Exploration test pits conducted as part of the RI activities in 2005 detected the presence of miscellaneous debris and fill material in this area. Figure 10 identifies the test pit locations excavated during the 2005 RI.

3.3.2 City Constructs Conduits to the Bay

A series of exploration test pits conducted as part of the RI activities in 2005 identified a network of subsurface sewers or drainpipes installed by the City which likely served as transport mechanisms for contaminants from upland areas to the impacted Bay sediments. A complete report of the results of this test pit investigation is presented in the RI Report. (URS, 2006). Environmental forensic samples were collected from these pipes, analyzed and reported in the forensic report cited above. (Newfields 2006).

In approximately 1951, the City built the (now former) wastewater treatment plant ("WWTP") along the filled Lakeshore. This construction occurred not long after the cessation of wood treatment activities at the Schroeder Lumber Company property. Given the condition of the Lakefront as recalled by several witnesses (See Exhibit 8), it should not be surprising that the City encountered impacted soils and groundwater from wood treatment residuals during its construction project. The City has provided little evidence concerning the construction project, however, for the reasons discussed below, it is clear that the significant land disturbing activities during the construction of the WWTP structure resulted releases to the now impacted sediments given that wood treatment residuals were exposed during that construction project. See, § 4.3.3.6.2 RI/FS Work Plan and § 6.0 of the RI Report (URS, 2006); See also, October 8, 2003 deposition of Mr. Fred Kovach (pgs. 9-10) at Exhibit 8.

The City retained Greeley & Hanson Engineers of Chicago to design and construct the WWTP, both for the original construction in 1951-1952 and the plant expansion in 1973. Record drawings from 1953 show the existence of an area labeled at the time by Greeley & Hanson as a "Coal Tar Dump". This area labeled as "Coal Tar Dump" is in the same general area as the eyewitnesses recalled the Schroeder Lumber wood treatment structure. See, Figure 9 and Exhibit 8. The location of the "Coal Tar Dump" was also investigated and confirmed by the 2005 test pit investigation and associated forensic sampling.

The drawings also depict a corrugated steel culvert installed from the "Coal Tar Dump" to an open ditch conduit to the Bay. This corrugated culvert is shown extending from the north end of the "Coal Tar Dump" area below Pulp Hoist Road (now Marina Drive) to an open ditch, which in turn leads to the west of the Bay and outfalls where the highest sediment contaminant levels have been measured. See, § 3.4.1, RI/FS Work Plan. Witnesses Gordon and Ray Parent described this very feature. Moreover, the test pit investigation conducted in 2005 encountered a steel culvert north of Marina Road. This conduit was likely installed by the City and designed to drain the area of former wood treatment residuals -- or "Coal Tar Dump" as the City's engineers labeled it -- directly to the Bay so as to accommodate construction.

The construction specification issued for the original WWTP construction provides as follows:

“Earth excavation, in open cut, shall be made to the widths and depths necessary for construction, according to the Plan, all structures included in this Contract and includes the excavation of any other material defined as earth which, in the opinion of the Engineer, is desirable to be excavated for any purpose pertinent to the construction of the work. ... Surplus excavated material, in excess of that required for backfilling around structures and in trenches for constructing fills and embankments as shown on the Plan, shall be transported and disposed of as directed by the Engineer within a distance of 1,000 feet from the point of excavation, or as approved by the Engineer.”

Specifications, Workmanship and Materials, Sec. 1 Earth Excavation, W-1.02 and W-1.06.

We are not aware of any authorized disposal location within 1,000 feet of the WWTP construction site other than the historic waste disposal location at Kreher Park investigated as part of the 2005 RI test pit investigation. The January 28, 1954 final report issued by Greeley & Hanson titled, Sewers and Sewage Treatment Work, City of Ashland, Wisconsin does not provide any mention of the excavation of wood waste or other wood treatment residual material encountered during the construction project.

Additionally, a former open sewer that crossed Kreher Park in the western portion of the Site is shown on historic Sanborn maps from 1901-1951 and represents a possible further conduit of upland contaminants to the Bay. A series of subterranean clay pipes or historical sewers encountered during the 2005 test pit investigation appeared to have drained upland areas to this open sewer maintained by the City. The combination of the former open sewer -- likely installed and maintained by the City as a waste disposal mechanism -- the corrugated steel culvert (a transport mechanism) draining the “Coal Tar Dump” area to the Bay and installed during the construction of the WWTP -- evidence the City’s participation in the threatened or actual release of hazardous substances to the Bay.

3.3.3 City Disposes of Tar at the Site

In addition to the above described matters, in the mid-1980s the City was involved in the disposal of tar at the Site. Attached at Tab M of Exhibit 8 are the deposition transcripts and associated affidavits secured from William Peter (“Pete”) Carrington. Mr. Carrington was a project engineer for Wilhem Engineering and worked on the City of Ashland’s project extending Ellis Avenue north in the mid-1980s. Mr. Carrington recalls that during the excavation, a large area of thick, heavy creosote-like material was encountered at the bottom of the hill near the railroad tracks. Mr. Carrington recalls that this material was loaded by the City into city dump trucks, trucked south on Ellis Avenue to U.S. Highway 2, east on U.S. Highway 2 to Prentice Avenue, then north on Prentice Avenue to be dumped at the Site in an area just to the south of the former wastewater treatment plant. See also, Figure 9. These facts evidence that the City not only arranged for the disposal of hazardous substances at the Site (42 U.S. § 9607(a)(3)), but also transported and selected the Site for disposal. 42 USC § 9607(a)(4).

3.3.4 City Direct Discharges Contaminants to the Bay

Additionally, the City of Ashland was engaged in the pumping of contaminated water – that collected in the basement of the former WWTP – directly to Chequamegon Bay without treatment. In a June 1997 memorandum, WDNR staff documented a meeting with a former City

Administrator wherein the City official explained “that the old plant continues to discharge water to the lake and has since its decommissioning. The water infiltrates into the basement and collects in a sump and is then pumped into the lake. All indications are that the water would be contaminated as the groundwater surrounding the building has been tested and confirmed contaminated with VOCs and PAHs.” The memorandum continued “This is a hot issue. I have forwarded an enforcement form through the channels but this should have waters program involvement.” The Department collected a sample of the water and it showed elevated levels of naphthalene and other PAH and VOC compounds. In a June 23, 1997 letter, the Department directed the City to cease its uncontrolled discharge of contaminated water. Documentation concerning this unauthorized discharge is attached at Exhibit 9.

The above-described activities render the City of Ashland a “covered person” for purposes of 42 USC § 9607(a). Moreover, the City can cite no statutory exemption to provide it relief from this liability. For example, the allegations concerning the City’s activities as an “arranger” suggest that the volume of waste was more than 110 gallons of liquid material and more than 200 pounds of solid material, making it ineligible for the de minimis exemption in 42 USC § 9607(o). Although its residents may attempt to assert the municipal solid waste exemption contained in 42 USC § 9607(p), the City is not eligible for that exemption. Likewise, the contiguous properties exemption in 42 USC § 9607(q) provides the City with no relief. These exemptions are unavailable because the plain language of the CERCLA statute requires that the exempt party must not have “cause[d], contribute[d] or consent[ed] to the release or threatened release.” A party asserting the contiguous property exemption must also have taken reasonable steps to stop the release and minimize environmental harm on its property as a result of the release and must have conducted all appropriate inquiry at the time of property acquisition evidencing that it lacked knowledge that its property was or could be contaminated by any contiguous parcel release. The facts asserted above reveal that not only did the City fail in 1942 (and later in 1986 during its land assembly at Kreher Park) to undertake all appropriate inquiry as now defined (See, 40 C.F.R. Part 312), but the City (i) constructed conduits to exacerbate the discharge and indeed provide a pathway for exposure to the Bay; (ii) knowingly discharged contaminated groundwater from the Site directly into the Bay as late as 1997; and, (iii) actively disposed of tar materials at the Site in conjunction with its 1986 roadway extension project. In sum, the recently enacted exemptions pursuant to the Brownfield Reform and Small Business Liability Protection Act (HR 2869) provide no relief to the City for its status as a liable party pursuant to 42 USC § 9607(a).

3.4 Canadian National Railroad & The Soo Line (n.k.a Canadian Pacific)

As indicated earlier, both Canadian National and The Soo Line/Canadian Pacific either own property at the Site or operated rail lines that serviced the Lakefront’s industrial activities, or both. The railroads’ liability associated with the Site is based on their respective status as owners of the Site and/or as “arrangers” that contributed to the release of hazardous substances. Canadian National owns a portion of the Site. See, Exhibit 3. The trackage over this property owned by Canadian National included sidings and spurs that serviced the Schroeder Lumber operation. See, Exhibits 1 and 11 and Figures 4-8. This trackage was historically operated not only by Canadian National’s predecessors but also by The Soo Line, now owned by Canadian Pacific. The Soo Line entered into a lease for this trackage in 1909.

The following individuals recall witnessing the presence of railcars on the Canadian National line and siding that serviced the Schroeder Lumber Company and had some role in the off-loading or transport of tar materials.⁴¹

Fred Kovach
Joseph Kabasa, Jr.

Ray Parent
John Walters

Thomas Nelson
Mary Kabasa

See Exhibit 8 for a summary of those witness recollections. Several of these witnesses recalled that the railroads dumped oil, tars or tar-like materials and other hazardous substances across the shoreline area where the tracks ran. The witnesses also recalled the presence of a rail tank car periodically parked near a housing/manifold system to support product delivery lines at the bluff face. Witnesses recall observing tar present within and at times overflowing this tank car. It is unknown whether this tank car was utilized to transfer tar from the MGP off-site to third-party customers or simply as a means of transferring tar from the MGP to Schroeder Lumber's wood treatment facility.

Other witnesses recall the railroad companies utilizing the Lakefront portion of the Site as a dump area during the City's operation of an open dump at the Site. See, Exhibit 8.

There is also some evidence to suggest that the railroads may have been in an enterprise with Schroeder Lumber for purposes of Schroeder's wood treating vessel. It is well documented that Schroeder Lumber manufactured treated railroad ties (see above). According to The American Lumber Industry (1923):⁴²

"In this country, wood preservation has made rapid strides since 1900. The real foundation of the industry was laid in 1873, with the installation of a plant at Pascagoula, Mississippi on the Louisville and Nashville railway. In 1904, there were 33 plants in operation in the United States, with a capacity of 250,000,000 board feet of treated material. The railroads are naturally the greatest users of timber and wooded materials to be affected by this industry, and at the present time all of our great American railway systems have one or more timber-treating plants, either owned by the railroads or operating in connection with them, largely for the treatment of cross ties."

The percentage of creosote treated crossties on U.S. rail lines grew rapidly during the early 1900s. Wood Preservation, Hunt & Garratt (1939). In 1900, only 3.3% of U.S. rail lines contained treated railroad ties. By 1920, more than 43% of rail lines sported treated ties. This increasing trend continued such that by the 1960s nearly all railroad ties were manufactured from treated wood. This explosion in the percentage of railroad ties being treated coincided with the time of Schroeder Lumber's operations.

A conclusion that the railroads were participating in a venture with Schroeder Lumber to generate treated railroad ties for railroad use is more than reasonable when one considers the recollections of witnesses, the economies of the day, the growth in the use of treated ties

⁴¹ NSPW acknowledges that its historic investigation was focused to a greater degree on the activities of Schroeder Lumber and the City as causing or contributing to the release of hazardous substances at the Site. Be that as it may, there is some evidence of the railroads' participation in the transport of tar product and/or wood treatment materials in addition to their status as owners or operators of a portion of the Site. Indeed, we believe the lack of information concerning the railroads' participation at the Site is justification for issuing, rather than a reason to not issue, a request for information pursuant to sec. 104(e) of CERCLA. We request the agency do so and then parties will have an opportunity to evaluate the railroads' information from there.

⁴² See, The American Lumber Industry, Embracing the Principal Features of the Resources, Production, Distribution, and Utilization of Lumber in the United States, by Nelson Courtlandt Brown, Professor of Forest Utilization, the New York State College of Forestry, Syracuse University; formerly United States Trade Commissioner to Europe for the National Lumber Manufacturer's Association and the United States Department of Commerce (1923).

coincident with Schroeder Lumber's operations, and the relative proximity of tar raw material, rail lines and treated railroad ties. This is additional support for NSPW's request that USEPA issue these parties a request for information pursuant to the statute.

4.0 SUPPORTING TECHNICAL DATA

Site investigation technical data (URS, 2006) corresponds with the historical information provided in this Report. Although already mentioned above, four site conditions merit further technical elaboration:

- GTI's calculation of 2.3 million gallons of free-product tar in the sediments. Other than the sediments, the only other locations where significant amounts of free-product have been found -- albeit at significantly lower volumes -- are in the Copper Falls aquifer, the filled former ravine area south of St. Claire Street, the former "seep" area at the bluff face and the immediate area near monitoring well TW-11 north of the WWTP. The 2005 test pit investigations identified a pipe parallel to the bluff face composed of the same approximate material and vintage as the clay tile installed at the base of the former ravine which was unearthed during prior investigations. The pipe encountered along the bluff face was aligned between the former seep area and the former open sewer. Both the clay tile in the buried ravine and the lateral pipe along the bluff face were installed by the City as part of the same network of sewers before the ravine was backfilled. Although this pipe network may have resulted in a discharge of free-product to the bay via the open sewer, the findings also indicate the discharge was not limited to the MGP alone. It is likely the free product was discharged via this pipe network from other industrial operations as well (i.e., Schroeder Lumber). In addition, the 2005 test pit investigation identified a culvert feature installed associated with the WWTP construction. See, Figure 10. This drainage feature provided an additional potential transport mechanism of wood treatment residuals to the bay sediments. These findings confirm there are several sources of free-product in the sediments, accounting for the large free-product volume measured in the sediments.
- The distribution of free-product levels found at the site. The distribution of free-product levels found in the sediments shows that the highest levels of contaminants mimic the shape of the shoreline. Such a distribution pattern would not be expected if the source of the sediment impacts was limited to a point source such as the open sewer. One would expect to see a fan-shaped contaminant distribution pattern extending out from such a point source. This distribution pattern could not have resulted from natural littoral or wave action effects because of the protected nature of the inlet. This contaminant distribution pattern is more consistent with the historical discharge of industrial sources at the lakeshore during the tenure of Schroeder Lumber and later during the construction (excavation/grading/filling) to accommodate the WWTP.
- The relative absence of middle-weight petroleum distillates in samples of free-product collected from the former MGP site. Although the forensic analyses performed by both WDNR and NSPW on samples of material from the MGP, Kreher Park and the sediments, conclude that the tars likely originated from a water gas origin (the gas production technology utilized at the MGP), samples from the MGP do not contain a middle-weight petroleum distillate in a proportion coincident with wood treatment specifications as is the case at Kreher Park (the site of Schroeder Lumber's former operations). This issue is addressed above in Section 3.1 of this Report. This middle-weight petroleum distillate material may have originated from fuel oils used and disposed at Kreher Park at off-loading and fuel-burning facilities, or may have been added as part of the wood treatment operations. It is not found at the top of the bluff in the same relative proportions found at Kreher Park and may account for much of the additional volume of product found at the Lakeshore and in the sediments. Moreover, the discovery of PCP and phenols in samples from the "Coal Tar Dump" area strongly suggest the

presence of historic wood treatment. (Newfields, 2006).

- The presence of significantly greater PAH contamination near the former wood treatment area. Section 5.0 of the RI report (URS, 2006) described the presence of PAH contamination at the Kreher Park area that is an order of magnitude or more higher than PAH levels detected from samples retrieved from the MGP area. This data confirms the presence of a significant additional source of contamination coincident with Schroeder Lumber's historical wood treatment and industrial operations along the lakefront.

5.0 CONCLUSION

This report, when coupled with the historical and technical evidence generated to date concerning the origin and sources of contaminants across the Site, indicates that it is an unsustainable position to assert that all of the contaminants at the Site resulted from the historic operations of the MGP. Rather, the activities of others (and other sources) have significantly contributed to the volume of contaminants at the Site, as well as exacerbated pre-existing discharges by transporting those hazardous substances to the sediments of Chequamegon Bay. The MGP could not have produced all of the impacts detected in the environment even if one assumes all of the tar product the MGP ever generated was dumped directly into the Bay. The MGP was a small facility that operated on average at less than 50% of its design capacity and that generated a total volume of tar product that is only approximately 25% of the residual volume of NAPL estimated to be present in the Bay sediments alone.

The significant operations of Schroeder Lumber Company and the Railroads along the Lakeshore, coupled with the manipulation of the Site through construction projects undertaken by the City, cannot be overlooked. NSPW owes a duty of prudence to its ratepayers when confronted with potential liabilities to which it must respond. That duty of prudence requires that NSPW not assume for its ratepayers the liabilities and responsibilities of others. As such, NSPW urges USEPA to review the information presented herein and to arrive at the conclusions set forth below:

- Schroeder Lumber Company owned and operated the Kreher Park portion of the Site from 1901 to 1939 and operated a wood treatment facility, oil houses, a kiln, a refuse burner and other appurtenances incidental to its wood processing facility which resulted in the actual release of hazardous substances at the Site.
- The City of Ashland currently owns a significant portion of Kreher Park where there is a release or threatened release of hazardous substances. As such, the City is the owner or operator of a vessel or facility for purposes of 42 USC § 9607(a). The City also caused or contributed to an actual release of hazardous substances at the Site by its activities and/or those of its residents and agents in (i) allowing the operation of an uncontrolled waste disposal location at the Site beginning in the 1940s; (ii) constructing in the 1950s and expanding in the 1970s the former wastewater treatment plant (WWTP) at the Site; (iii) transporting to and disposing at the Site contaminants excavated during the extension of Ellis Avenue in the mid-1980s; (iv) pumping PAH and VOC contaminated water from the WWTP to the impacted portion of the Bay as late as 1997; and, (v) installing and maintaining surface and subsurface drainage features and transport mechanisms, such as open sewers and culverts, the result of which was to transmit contaminants from Kreher Park to the Bay. This conduct renders the City liable as an "arranger" pursuant to 42 USC § 9607(a)(3). Furthermore, the City is not eligible for any of CERCLA's statutory liability exemptions.
- Canadian National Railway Company and the Soo Line Railroad (n.k.a. Canadian Pacific). Canadian National owns a portion of the Lakefront where there is a release of hazardous substances. As such, Canadian National is the owner or operator of a vessel

or facility for purposes of 42 USC § 9607(a). This trackage was historically operated by not only Wisconsin Central (n.k.a. Canadian National), but also The Soo Line (n.k.a. Canadian Pacific) via a lease dating to April 1, 1909. The Soo Line was eventually purchased by Canadian Pacific. Canadian Pacific and Canadian National are not affiliates and indeed are rival companies in the rail transit business. As such, there are potentially two railway companies, Canadian National and Canadian Pacific, with responsibility for historic discharges at the Site. Canadian National's predecessors' activities and The Soo Line Railroad's (i.e., Canadian Pacific) historic activities related to the operation of rail transport lines at the Site caused releases of hazardous substances at the Site rendering the railroads a party liable pursuant to 42 USC § 9607(a). Furthermore, the railroads are not eligible for any of CERCLA's statutory liability exemptions.

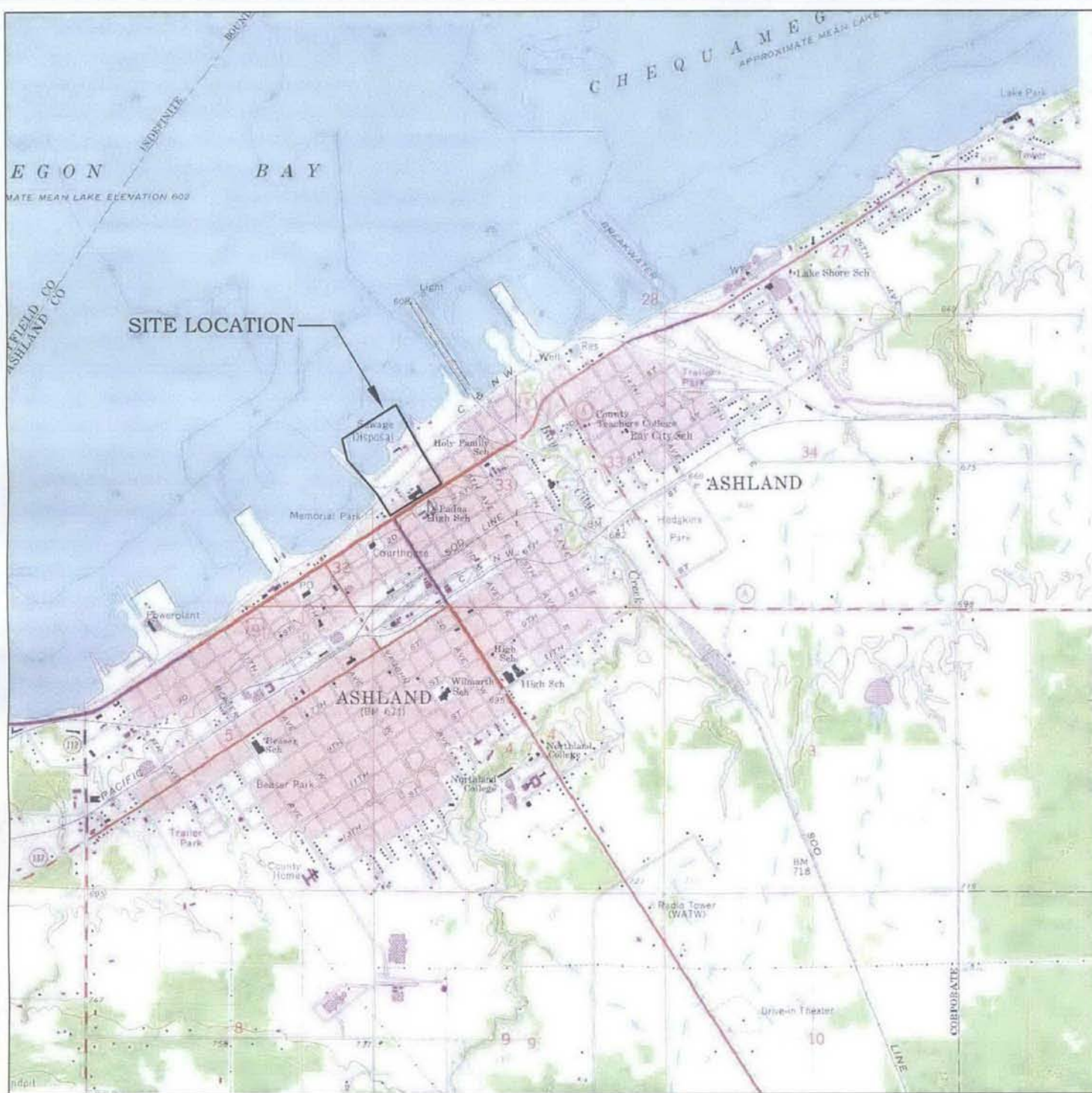
Following review of this Report and its attachments, NSPW requests that USEPA:

- Generate a comprehensive list of information requests⁴³ pursuant to its authority in 42 USC § 9604(e) to the City of Ashland, Canadian National and Soo Line/Canadian Pacific Railroads requiring those entities to provide information concerning their role in the release or threatened release of hazardous substances at and from the Site;
- Determine that the Schroeder Lumber Company, the City of Ashland, Canadian National and Soo Line/Canadian Pacific are liable parties pursuant to 42 USC § 9607(a) and issue a letter to the authorized representative or registered agent of each communicating such determination and seeking their participation in negotiations to resolve such liabilities for all response costs incurred or to be incurred not inconsistent with the National Contingency Plan ("NCP");
- To the extent any or all of the above parties are unable to respond to their liability due to their nonexistence or financial condition, exercise enforcement discretion pursuant to USEPA's Orphan Share Reform policy in its future negotiations with NSPW;
- Determine that the conditions exist for the exercise of USEPA's enforcement discretion pursuant to the Orphan Share Reform Policy and/or pursuant to the common law and statutory concepts of divisible harm, equitable allocation and/or mixed funding (42 USC § 9622(b)(1)).

Q:\client\070086\0053\B0790483.1

⁴³ As NSPW has previously offered to WDNR, NSPW would, if requested, suggest a list of information requests for USEPA's consideration given NSPW's familiarity with the investigations conducted to date.

Figures



BASE MAP SOURCE: USGS 7.5 MINUTE TOPOGRAPHIC QUADRANGLE,
ASHLAND, WISCONSIN, DATED 1964, PHOTOREVISED 1975.



QUADRANGLE
LOCATION



NORTH

0 1320 2640 5280

SCALE IN FEET

PROJECT:

ASHLAND/NSP LAKEFRONT SITE
ASHLAND, WISCONSIN

TITLE:

PRP INVESTIGATION REPORT

FIGURE 1
SITE LOCATION MAP

DRAWN BY: DDZ

SCALE: 1" = 2640'

PROJ. NO. 25688375

CHECKED BY: DPT

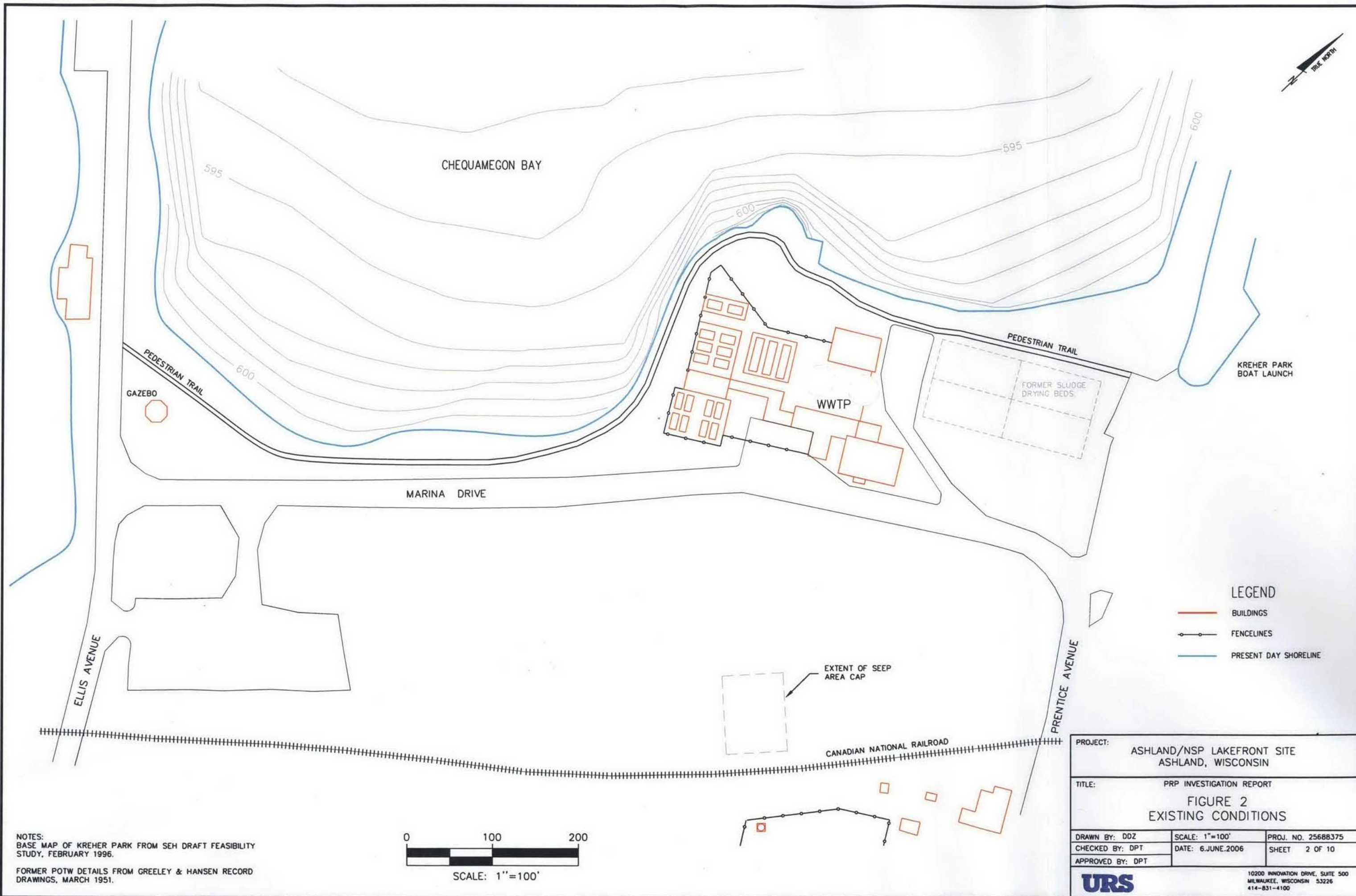
DATE: 6 JUNE 2006

SHEET: 1 OF 10

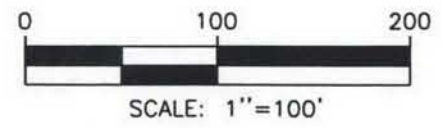
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10200 INNOVATION DRIVE, SUITE 500
MILWAUKEE, WISCONSIN 53226
414-831-4100

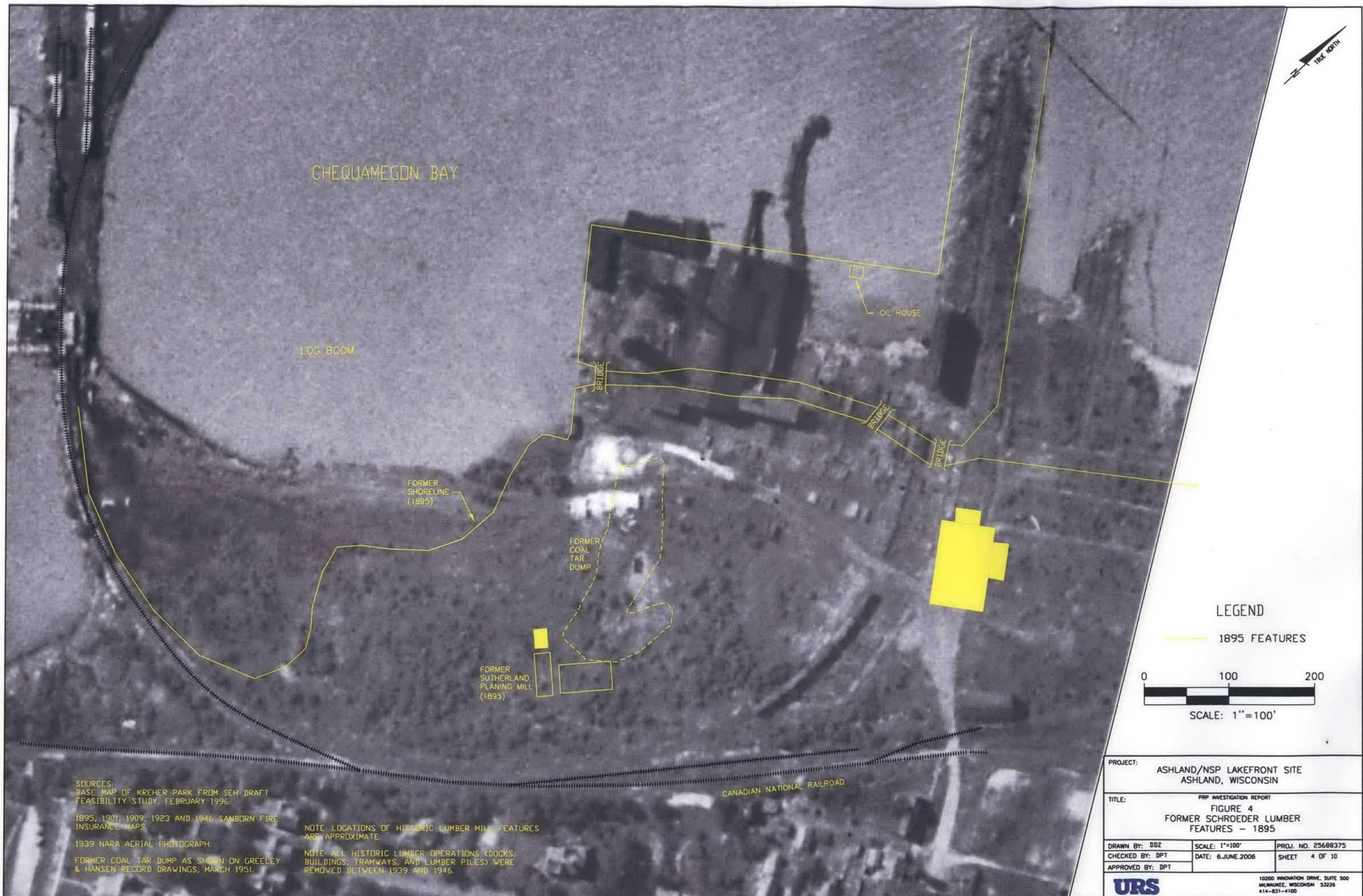


NOTES:
BASE MAP OF KREHER PARK FROM SEH DRAFT FEASIBILITY
STUDY, FEBRUARY 1996.
FORMER POTW DETAILS FROM GREELEY & HANSEN RECORD
DRAWINGS, MARCH 1951.



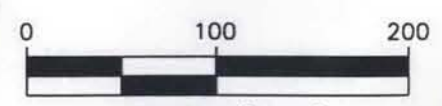
PROJECT: ASHLAND/NSP LAKEFRONT SITE ASHLAND, WISCONSIN		
TITLE: PRP INVESTIGATION REPORT FIGURE 2 EXISTING CONDITIONS		
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CHECKED BY: DPT	DATE: 6.JUNE.2006	SHEET 2 OF 10
APPROVED BY: DPT		
URS		10200 INNOVATION DRIVE, SUITE 500 MILWAUKEE, WISCONSIN 53226 414-831-4100





LEGEND

1895 FEATURES



SCALE: 1"=100'

PROJECT: ASHLAND/NSP LAKEFRONT SITE
ASHLAND, WISCONSIN

TITLE: PRP INVESTIGATION REPORT
FIGURE 4
FORMER SCHROEDER LUMBER
FEATURES - 1895

DRAWN BY: DBZ	SCALE: 1"=100'	PROJ. NO. 25688375
CHECKED BY: DPT	DATE: 6.JUNE.2006	SHEET 4 OF 10
APPROVED BY: DPT		



10200 INNOVATION DRIVE, SUITE 500
MILWAUKEE, WISCONSIN 53226
414-831-4100

SOURCES:
BASE MAP OF KREHER PARK FROM SEH DRAFT
FEASIBILITY STUDY, FEBRUARY 1996.

1895, 1901, 1909, 1923 AND 1946 SANBORN FIRE
INSURANCE MAPS.

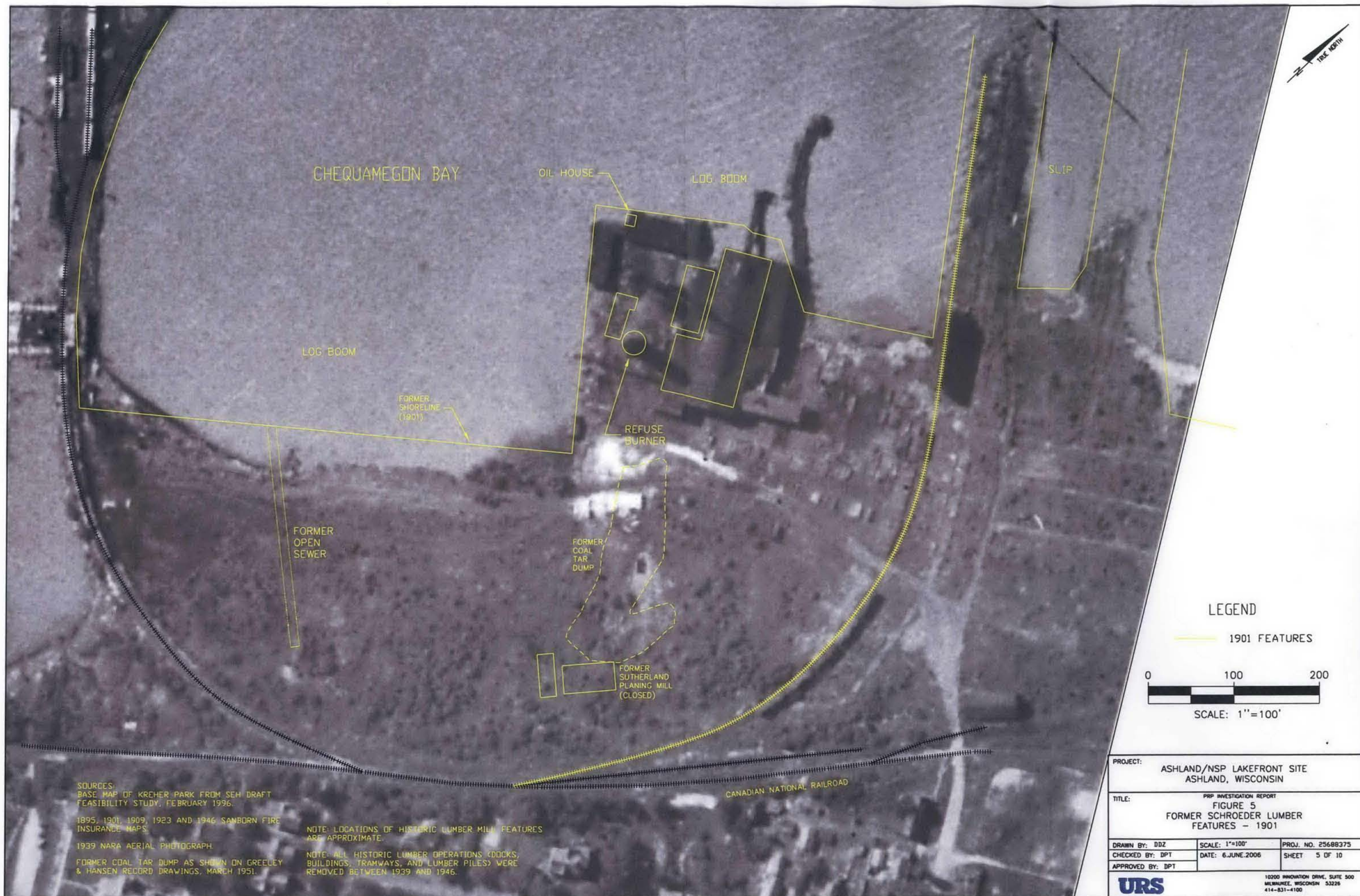
1939 NARA AERIAL PHOTOGRAPH.

FORMER COAL TAR DUMP AS SHOWN ON GREELEY
& HANSEN RECORD DRAWINGS, MARCH 1951.

NOTE: LOCATIONS OF HISTORIC LUMBER MILL FEATURES
ARE APPROXIMATE.

NOTE: ALL HISTORIC LUMBER OPERATIONS (DOCKS,
BUILDINGS, TRAMWAYS, AND LUMBER PILES) WERE
REMOVED BETWEEN 1939 AND 1946.

CANADIAN NATIONAL RAILROAD



SOURCES:
BASE MAP OF KREHER PARK FROM SEH DRAFT
FEASIBILITY STUDY, FEBRUARY 1996.

1895, 1901, 1909, 1923 AND 1946 SANBORN FIRE
INSURANCE MAPS.

1939 NARA AERIAL PHOTOGRAPH.

FORMER COAL TAR DUMP AS SHOWN ON GREELEY
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NOTE: LOCATIONS OF HISTORIC LUMBER MILL FEATURES
ARE APPROXIMATE.

NOTE: ALL HISTORIC LUMBER OPERATIONS (DOCKS,
BUILDINGS, TRAMWAYS, AND LUMBER PILES) WERE
REMOVED BETWEEN 1939 AND 1946.

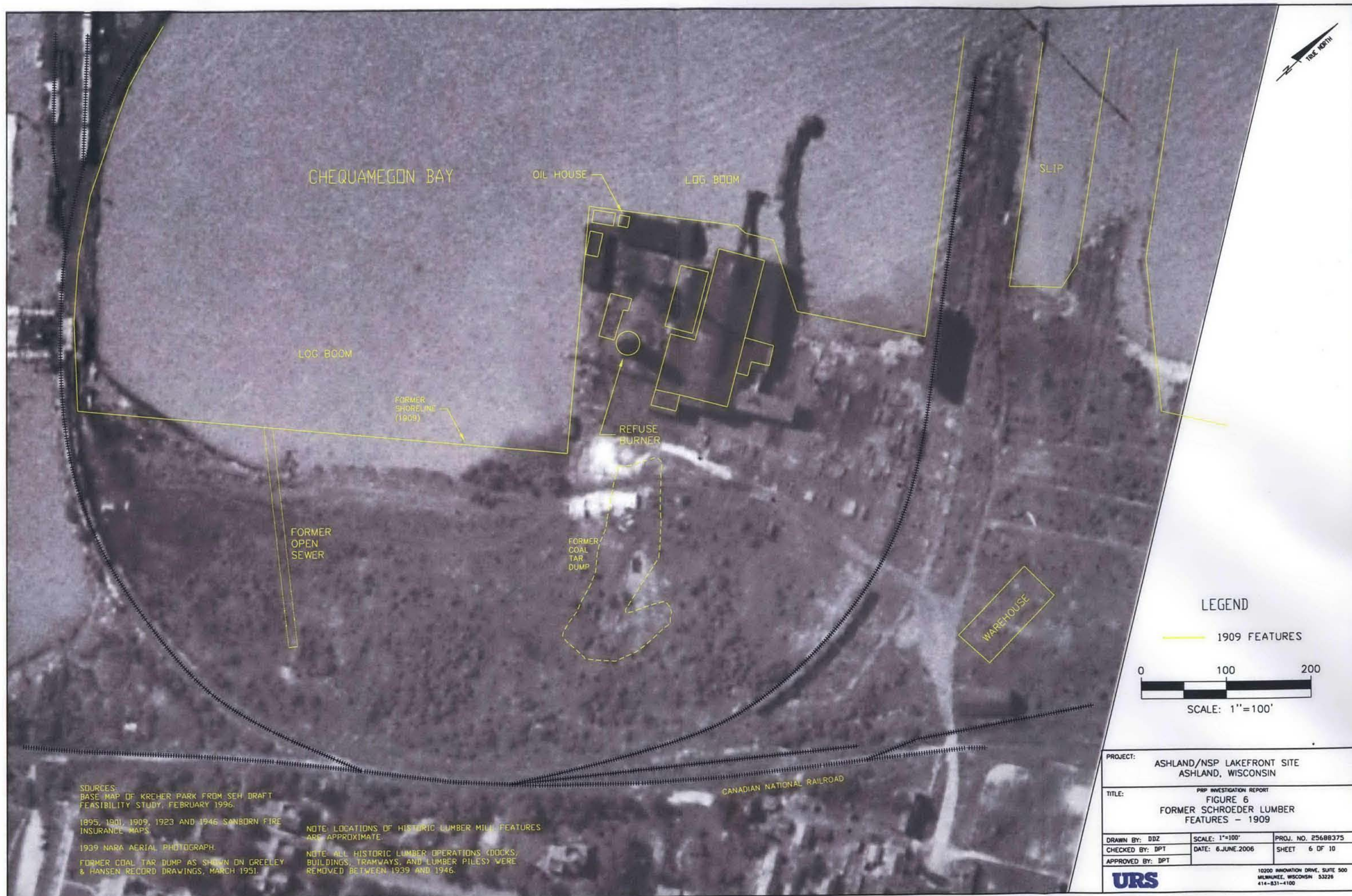
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ASHLAND, WISCONSIN

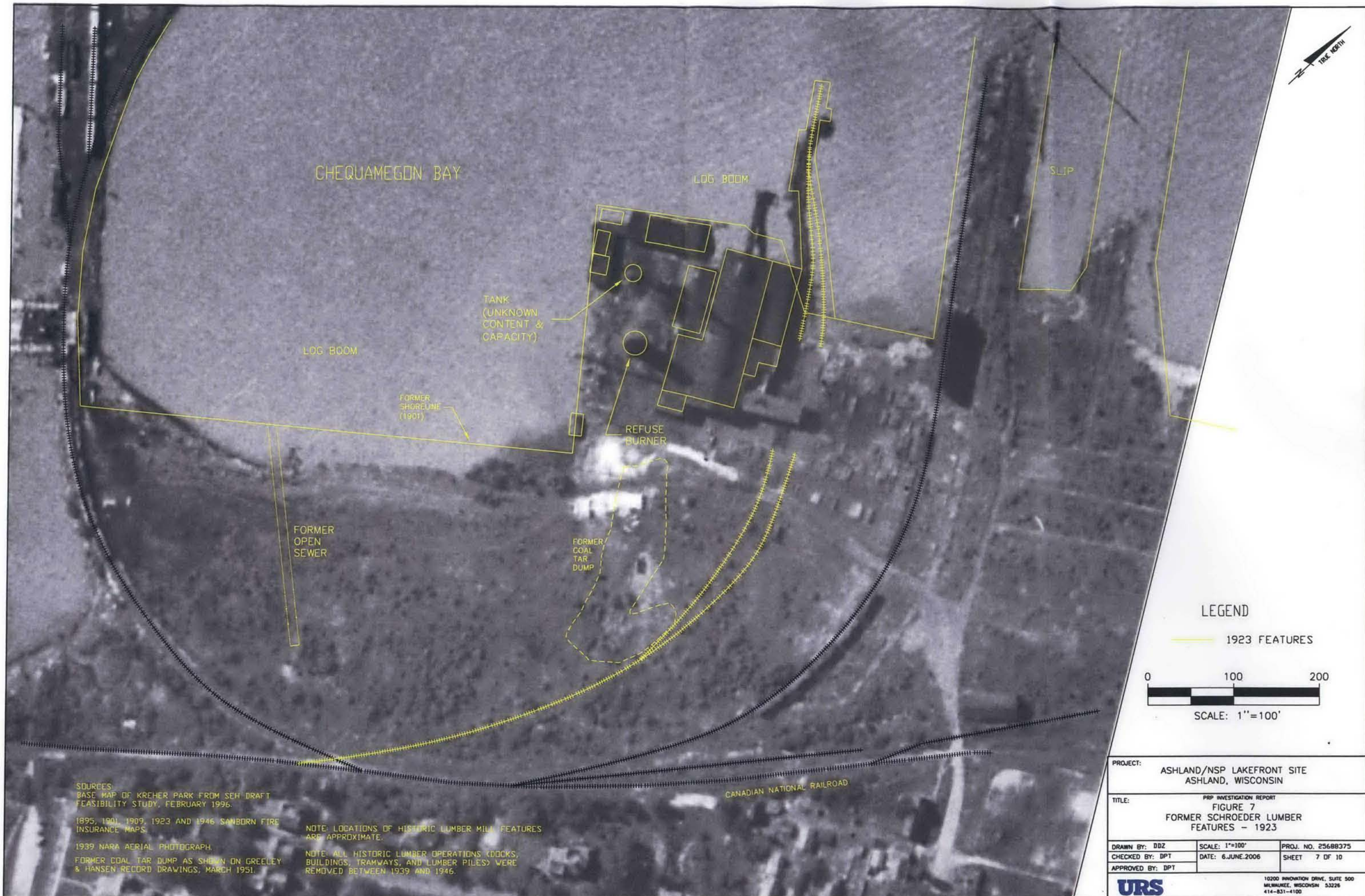
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FIGURE 5
FORMER SCHROEDER LUMBER
FEATURES - 1901

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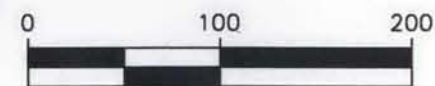
10200 INNOVATION DRIVE, SUITE 500
MILWAUKEE, WISCONSIN 53226
414-831-4100





LEGEND

1923 FEATURES



SCALE: 1"=100'

SOURCES:
BASE MAP OF KREHER PARK FROM SEH DRAFT
FEASIBILITY STUDY, FEBRUARY 1996.

1895, 1901, 1909, 1923 AND 1946 SANBORN FIRE
INSURANCE MAPS.

1939 NARA AERIAL PHOTOGRAPH.

FORMER COAL TAR DUMP AS SHOWN ON GREELEY
& HANSEN RECORD DRAWINGS, MARCH 1951.

NOTE: LOCATIONS OF HISTORIC LUMBER MILL FEATURES
ARE APPROXIMATE.

NOTE: ALL HISTORIC LUMBER OPERATIONS (DOCKS,
BUILDINGS, TRAMWAYS, AND LUMBER PILES) WERE
REMOVED BETWEEN 1939 AND 1946.

PROJECT: ASHLAND/NSP LAKEFRONT SITE
ASHLAND, WISCONSIN

TITLE: PRP INVESTIGATION REPORT
FIGURE 7
FORMER SCHROEDER LUMBER
FEATURES - 1923

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CHECKED BY: DPT	DATE: 6 JUNE 2006	SHEET 7 OF 10
APPROVED BY: DPT		

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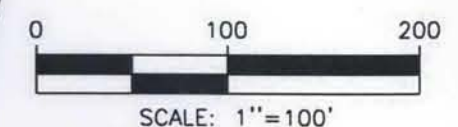
10200 INNOVATION DRIVE, SUITE 500
MILWAUKEE, WISCONSIN 53226
414-831-4100



CHEQUAMEGON BAY

FORMER
OPEN
SEWER

FORMER
COAL
TAR
DUMP



SOURCES:
BASE MAP OF KREHER PARK FROM SCH DRAFT
FEASIBILITY STUDY, FEBRUARY 1996.

1895, 1901, 1909, 1923 AND 1946 SANBORN FIRE
INSURANCE MAPS


1939 NARA AERIAL PHOTOGRAPH.

FORMER COAL TAR DUMP AS SHOWN ON GREELEY
& HANSEN RECORD DRAWINGS, MARCH 1951.

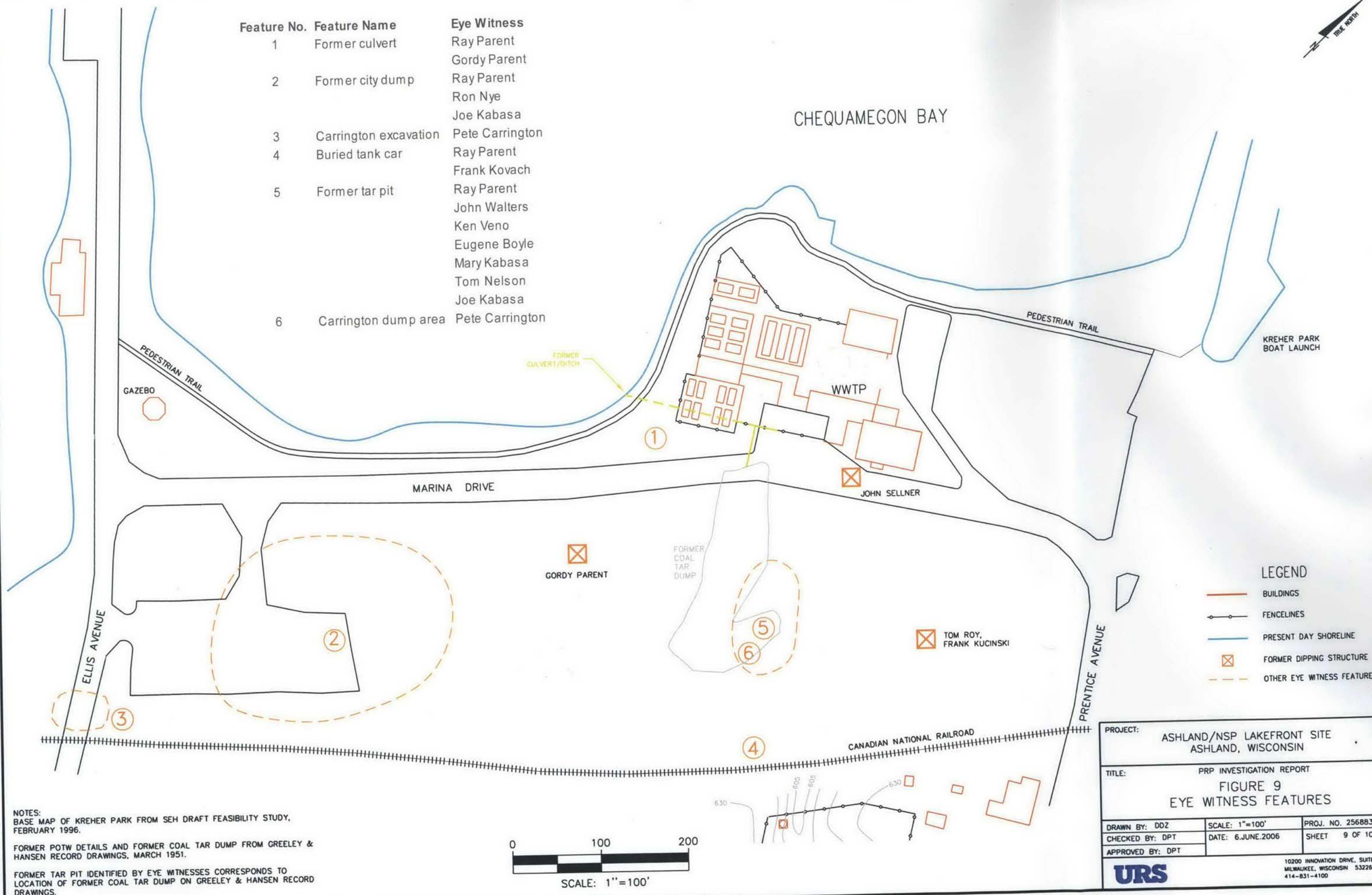
NOTE: LOCATIONS OF HISTORIC LUMBER MILL FEATURES
ARE APPROXIMATE.

NOTE: ALL HISTORIC LUMBER OPERATIONS (DOCKS,
BUILDINGS, TRAMWAYS, AND LUMBER PILES) WERE
REMOVED BETWEEN 1939 AND 1946.

CANADIAN NATIONAL RAILROAD

PROJECT: ASHLAND/NSP LAKEFRONT SITE ASHLAND, WISCONSIN		
TITLE: PRP INVESTIGATION REPORT FIGURE 8 FORMER SCHROEDER LUMBER FEATURES - 1946		
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CHECKED BY: DPT	DATE: 6 JUNE 2006	SHEET 8 OF 10
APPROVED BY: DPT		
 10200 INNOVATION DRIVE, SUITE 500 MILWAUKEE, WISCONSIN 53226 414-831-4100		

Feature No.	Feature Name	Eye Witness
1	Former culvert	Ray Parent Gordy Parent
2	Former city dump	Ray Parent Ron Nye Joe Kabasa
3	Carrington excavation	Pete Carrington
4	Buried tank car	Ray Parent Frank Kovach
5	Former tar pit	Ray Parent John Walters Ken Veno Eugene Boyle Mary Kabasa Tom Nelson Joe Kabasa
6	Carrington dump area	Pete Carrington





Legend

—— Buried pipes

Test Pit locations

Event Date

- Nov 2005
- June 2005

0 25 50 100 150 200
Feet

Base map source:
NARA 1939 aerial photograph.

PROJECT: ASHLAND/NSP LAKEFRONT SITE
ASHLAND, WISCONSIN

TITLE: PRP INVESTIGATION REPORT

Figure 10
2005 RI Test Pit Locations and Historical Site Features

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APPROVED BY: DPT		

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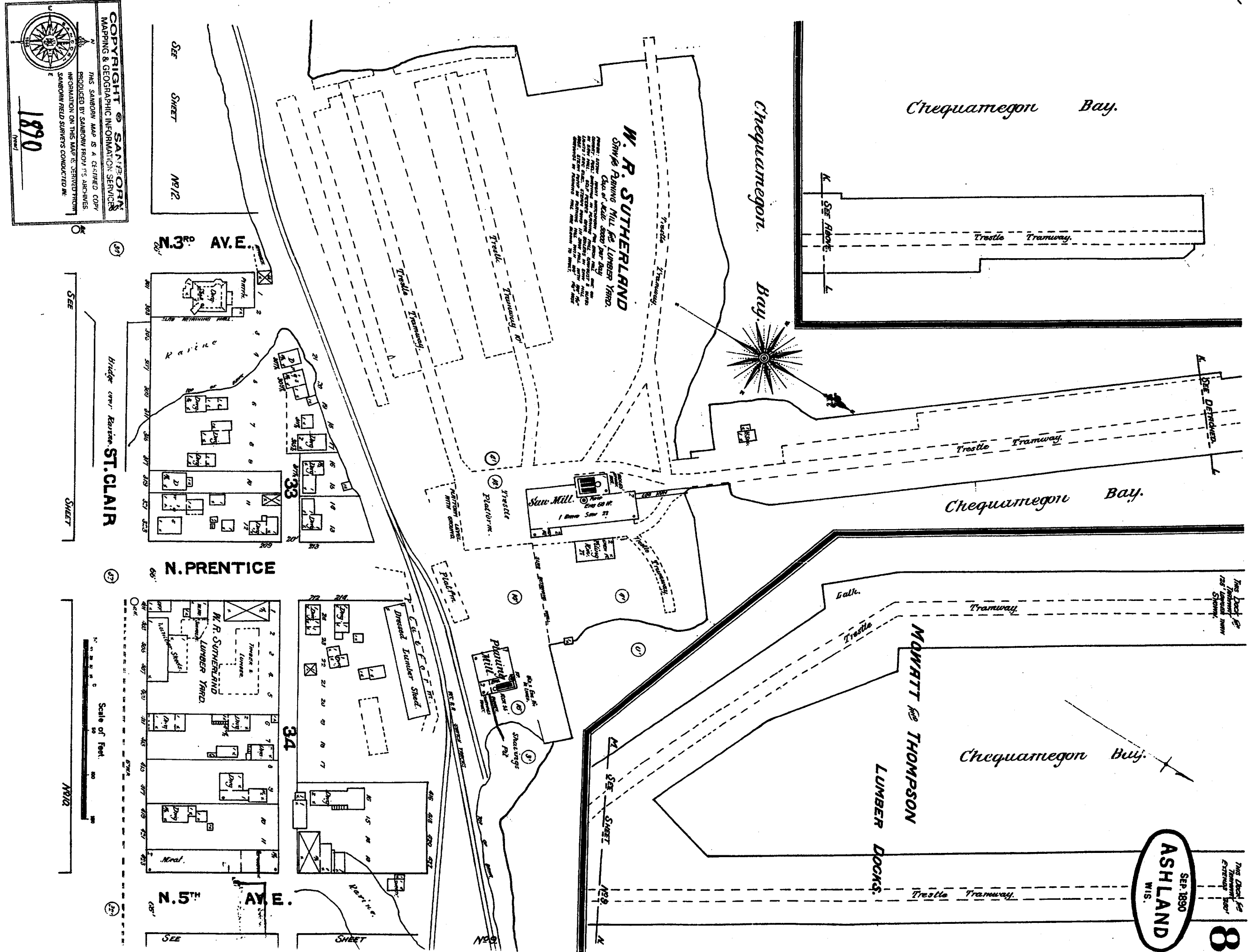
10200 INNOVATION DRIVE, SUITE 500
MILWAUKEE, WISCONSIN 53226
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Exhibit Index

HISTORIC PRP INVESTIGATION REPORT ASHLAND/NSP LAKEFRONT SITE

EXHIBIT INDEX

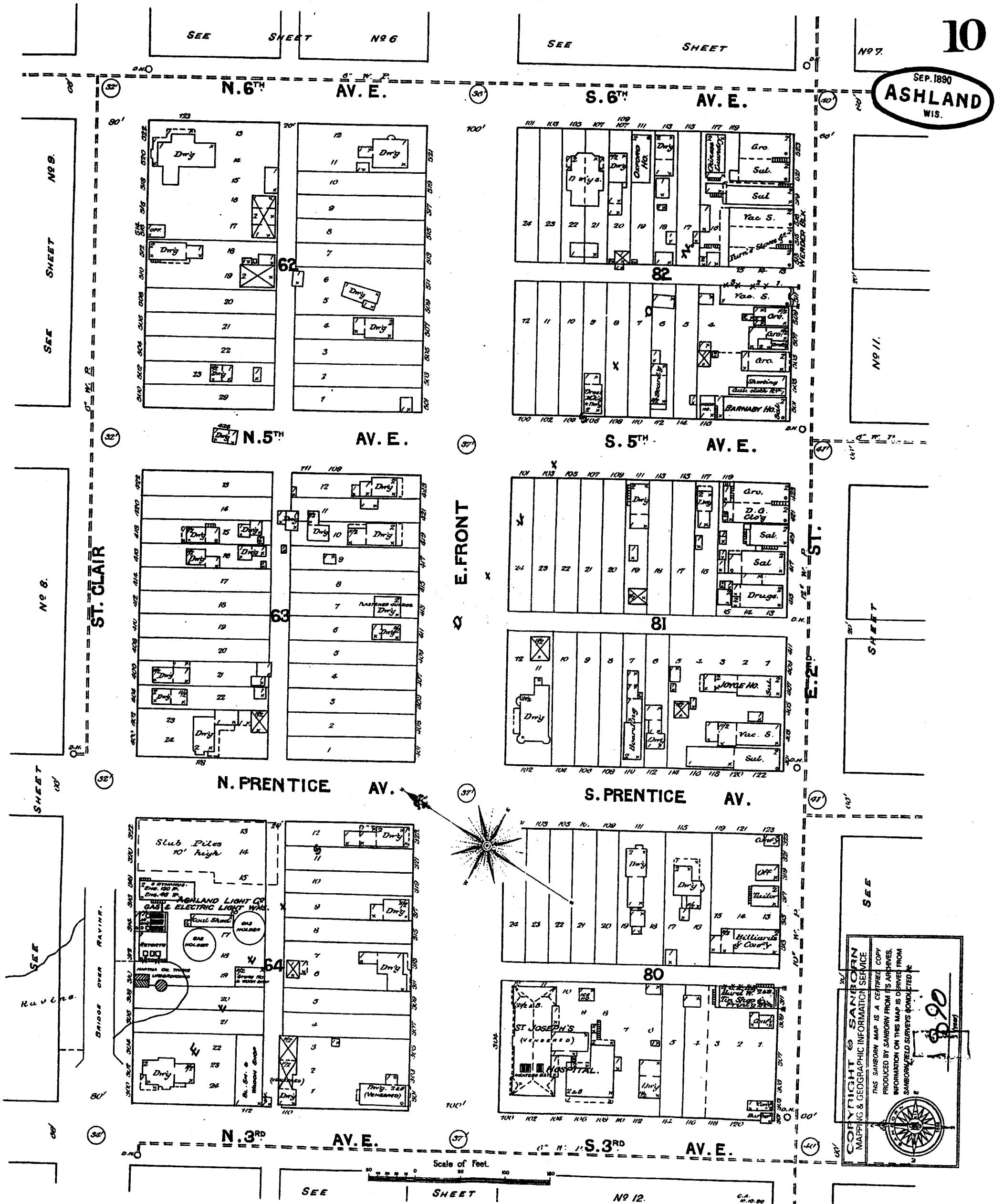
<u>Tab</u>	<u>Document</u>
1.	Sanborn Maps 1890-1951
2.	1890 Lithograph
3.	Title Report and Summary
4.	MGP Tar Production Calculations <ul style="list-style-type: none">• Gas and Tar Production and Release Estimates, Dames & Moore, December 4, 1998• Volumetric Estimates of DNAPL (Coal Tar) in the Environment and Total Tar Production From the NSP Former MGP Facility in Ashland, Wisconsin, Gas Technology Institute ("GTI"), November 1, 2000• Revised Estimation of Tar (DNAPL) in the Bay Area Sediments, Ashland Lakefront Site, Ashland, Wisconsin, GTI, August 3, 2001
5.	Vernon Zak Affidavit dated September 4, 1998 and May 26, 1999 WDNR Interview Summary
6.	John Schroeder Lumber Company Ownership Documentation
7.	Documentation regarding Schroeder Lumber Ownership Transfer
8.	Summary of Witness Testimony <ul style="list-style-type: none">A. John Selner: Deposition Transcript, Affidavits and Interview SummariesB. Gordon Parent: Deposition Transcript, Affidavits and Interview SummariesC. Tom Roy: AffidavitD. Frank Kucinski: Deposition Transcripts and AffidavitE. Ray Parent: Deposition TranscriptF. Joseph Kabasa, Jr.: Deposition Transcript and AffidavitG. Donald R. Larson: Deposition TranscriptH. Kenneth Veno: Deposition Transcript and AffidavitI. Mary Kabasa: AffidavitJ. John Walters: AffidavitK. Eugene Boyle: AffidavitL. Thomas Nelson: AffidavitM. Pete Carrington: Deposition Transcript and AffidavitN. Ron Nye: AffidavitO. Fred Kovach: Deposition Transcript and Affidavit
9.	WDNR Documentation concerning City Discharges <ul style="list-style-type: none">• WDNR Memorandum dated June 13, 1997 regarding Abandoned Ashland WWTP Discharge• WDNR Memorandum dated June 16, 1997 regarding Abandon City of Ashland WWTP• Letter from WDNR to the City of Ashland regarding Old Wastewater Treatment Plant Discharge, dated June 23, 1997
10.	Average Naphthalene Concentrations in Sediment
11.	Canadian National/Schroeder spur documents



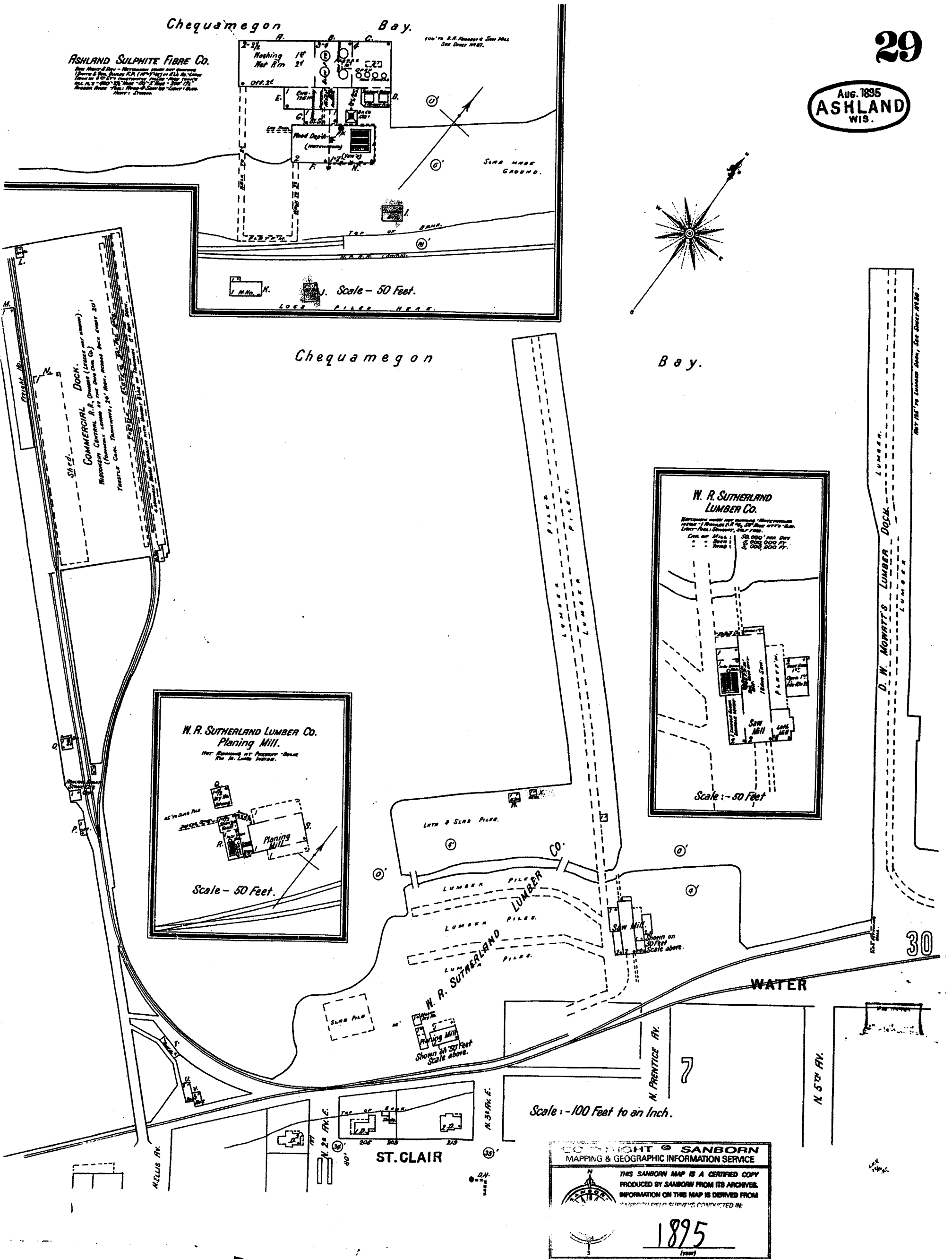
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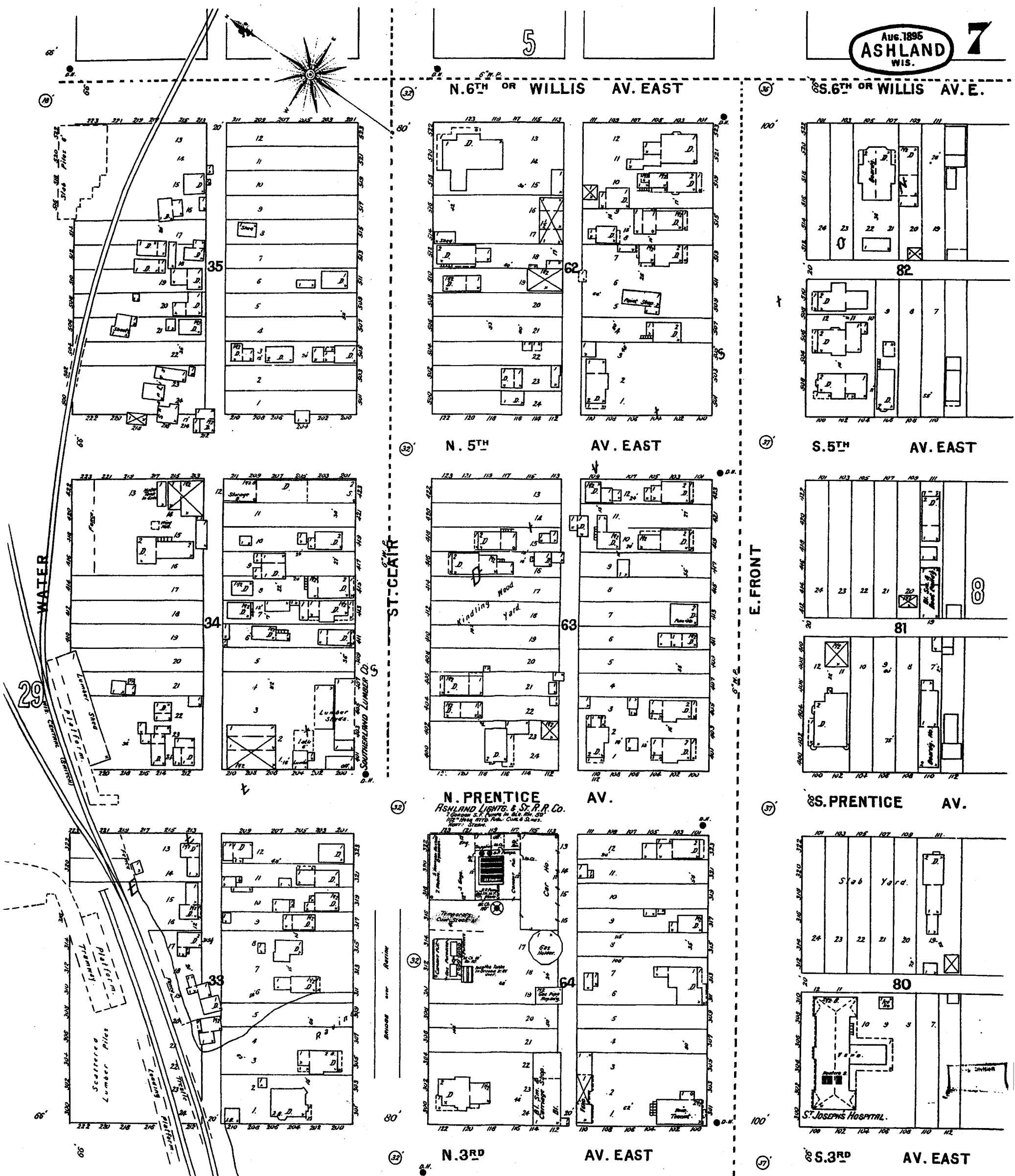
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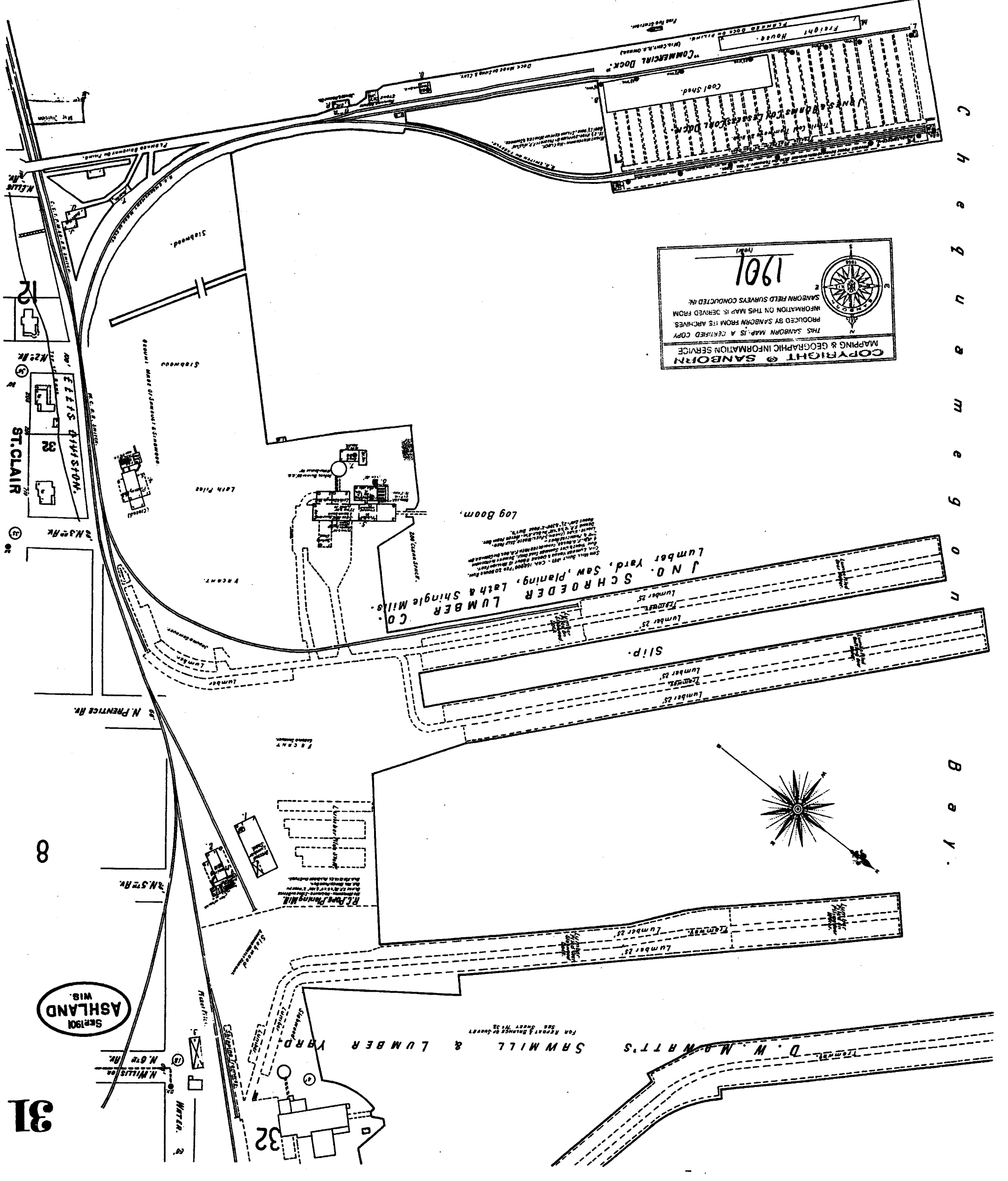
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Aug. 1895
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WIS.







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Scale of Feet
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ASHLAND
WIS.
SEP 1901

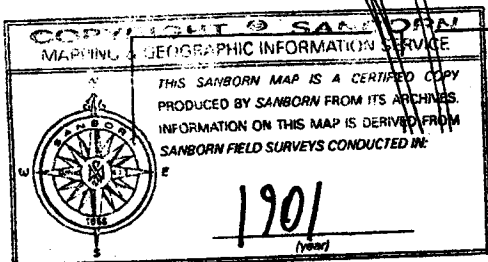
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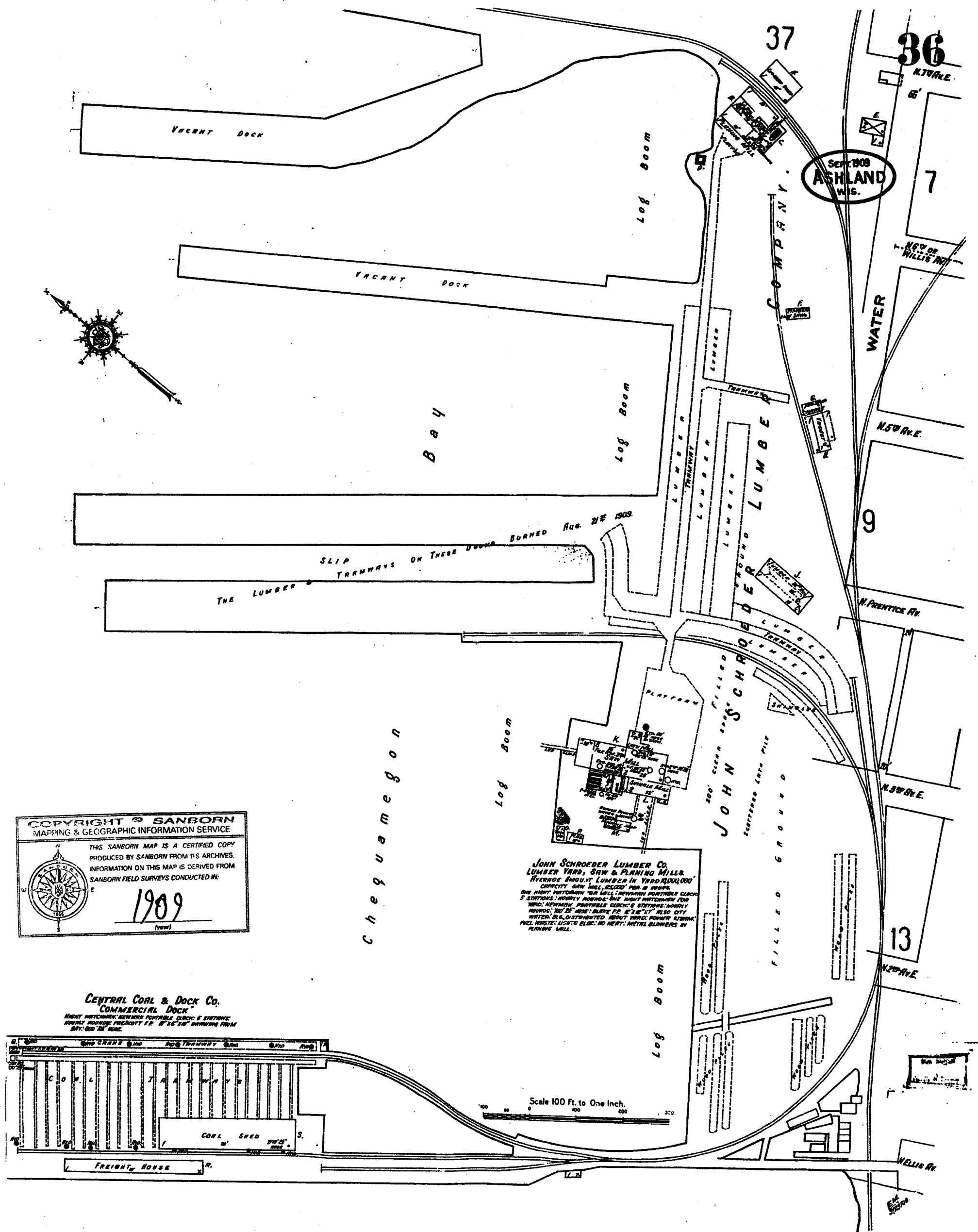
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N. 6TH OR WILLIS AV. E.

S. 6TH OR WILLIS AV. E.

N. 5TH AV. E.

S. 5TH AV. E.

N. PRENTICE AV.

S. PRENTICE AV.

ASHLAND LIGHT POWER &
STREET RAILWAY CO.

ST. JOSEPH HOSPITAL

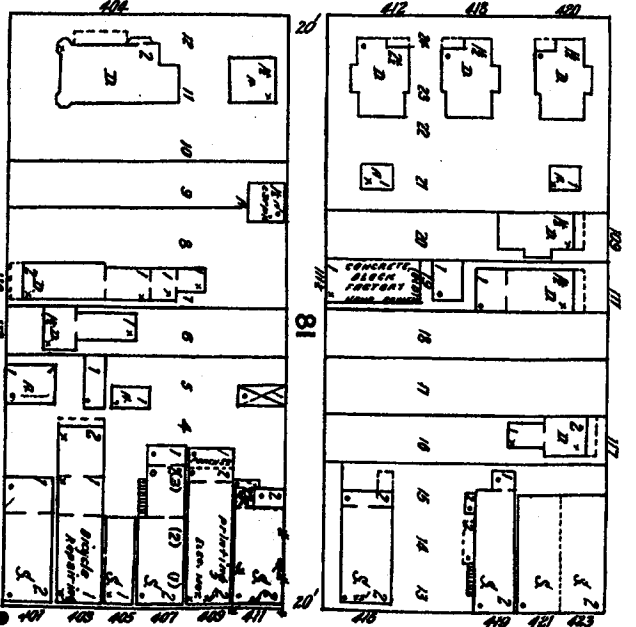
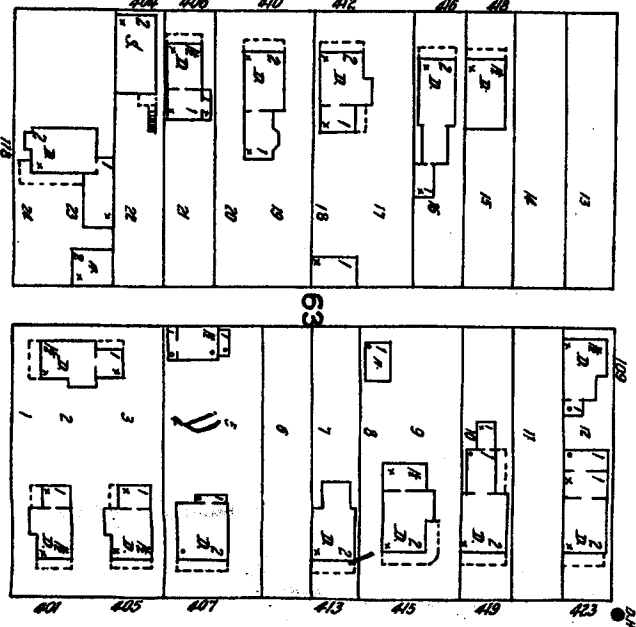
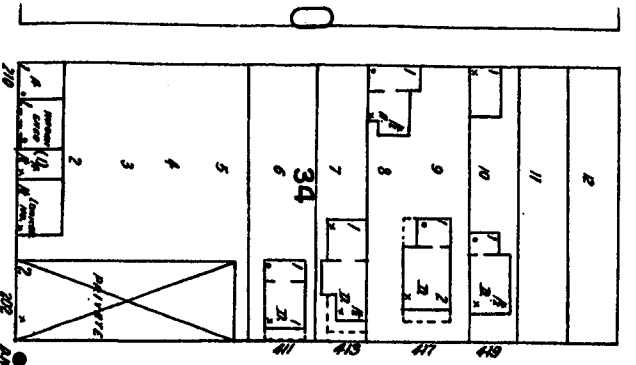
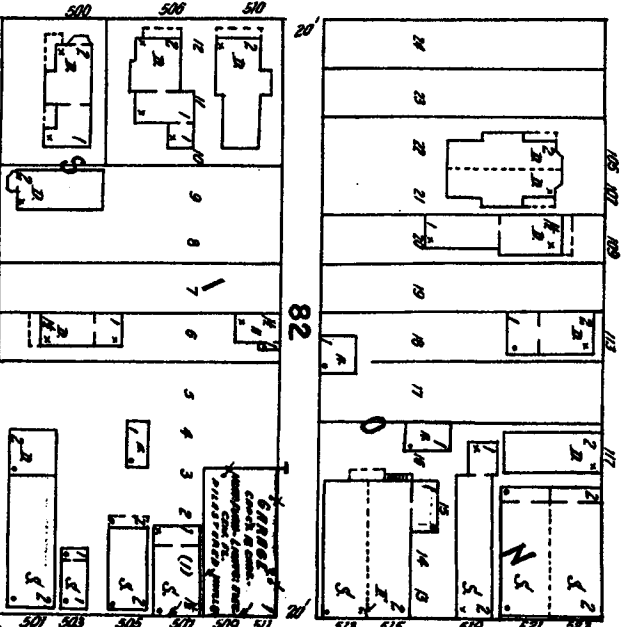
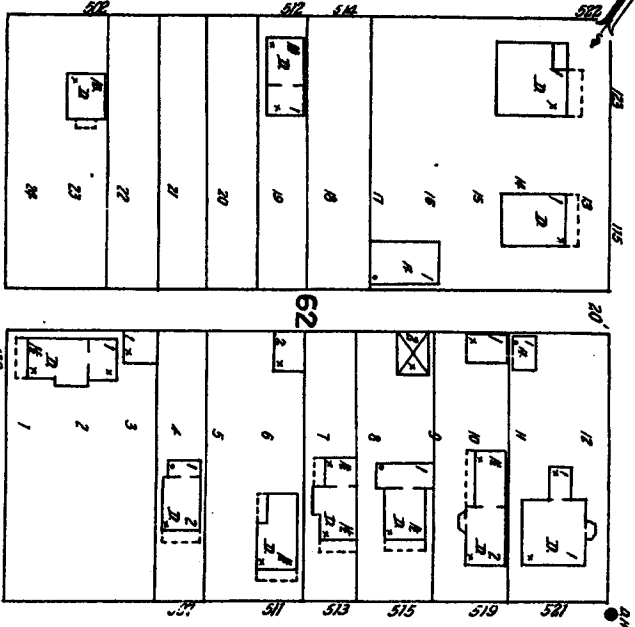
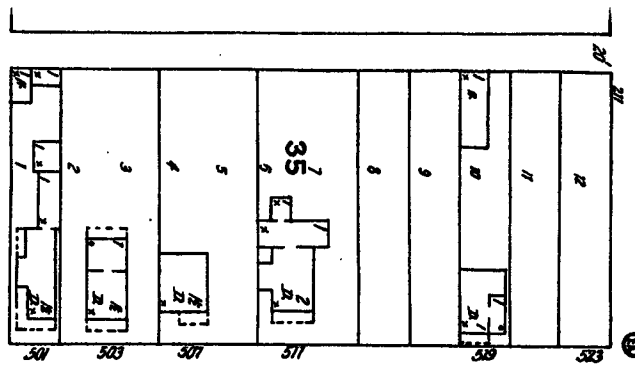
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S. 3RD AV. E.

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1909

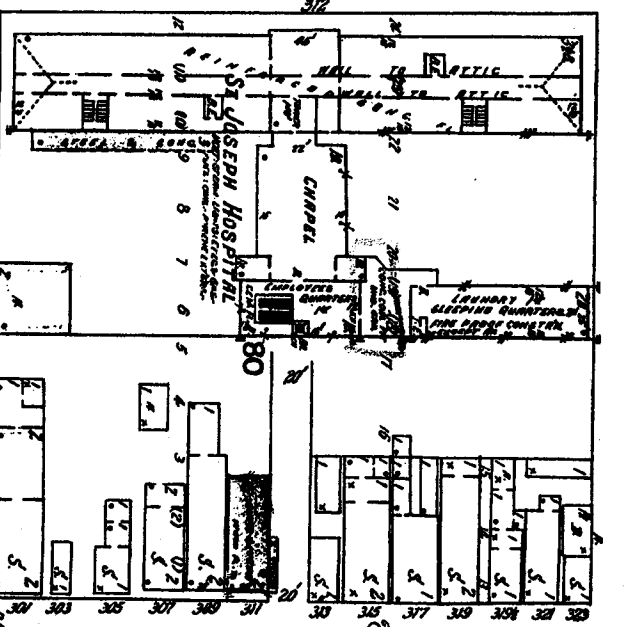
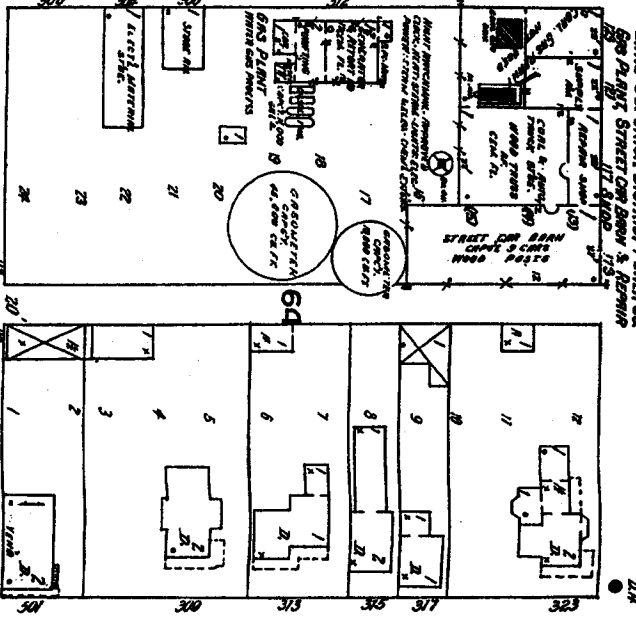
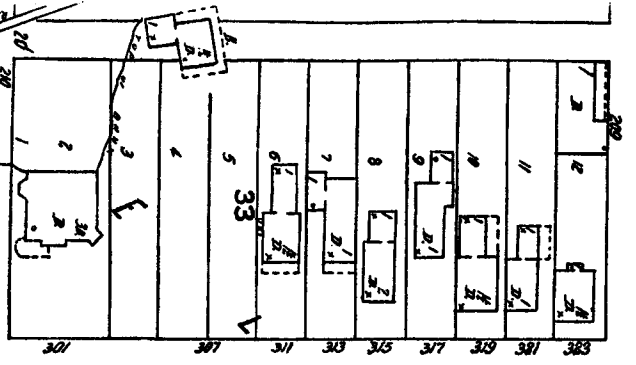


ST. CLAIR

E. FRONT

ST.

E. 2ND



N. PRENTICE & AV.

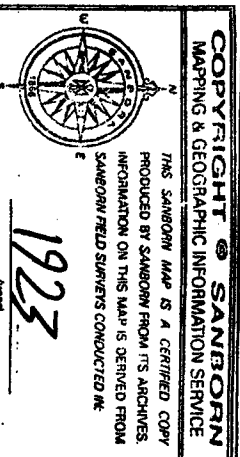
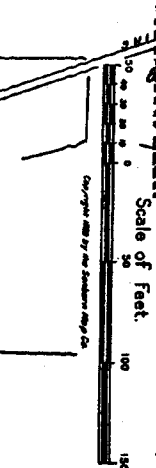
578,2124 S. PRENTICE AVE.

N. 5TH
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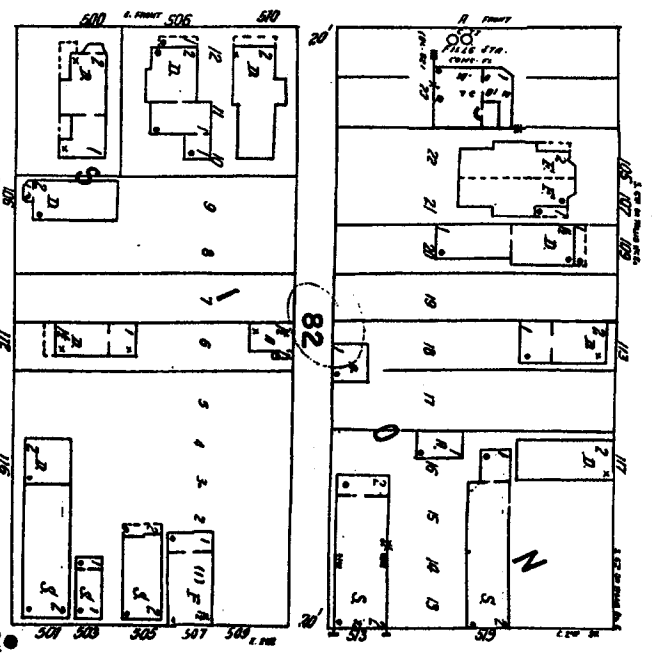
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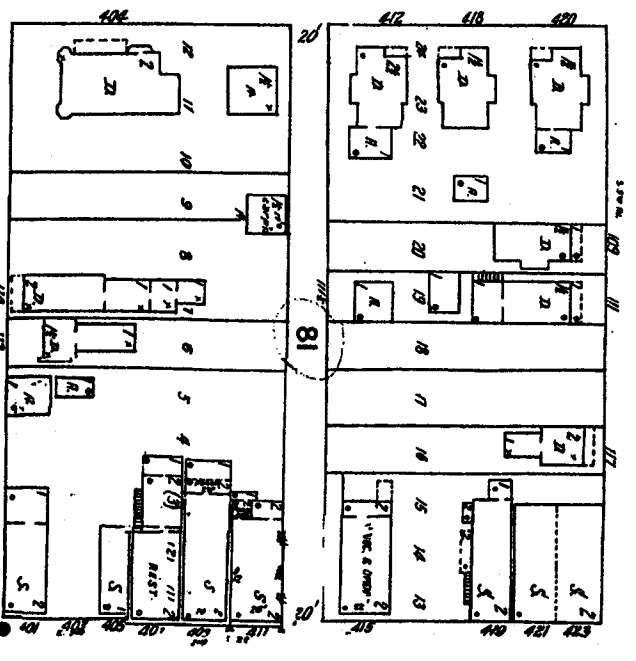


JUNE 23
ASHLAND
WIS.
22

S. 6TH OR WILLIS AV. E.

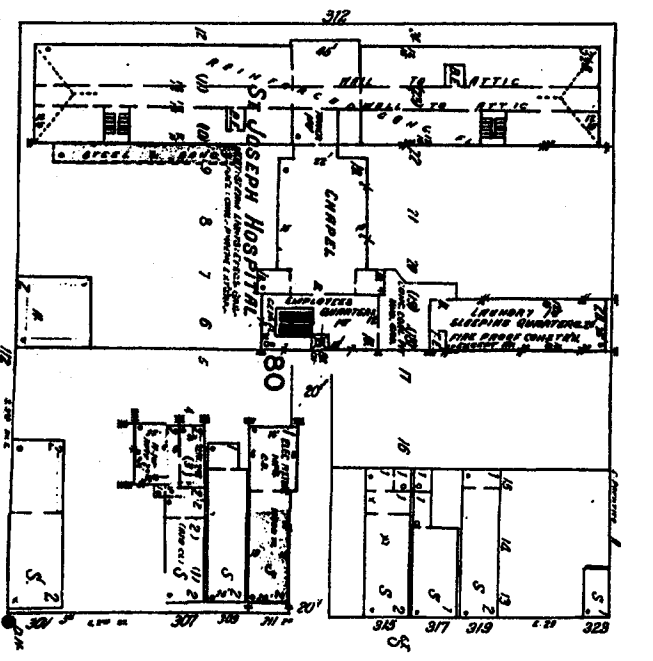


S. 5TH AV. E.



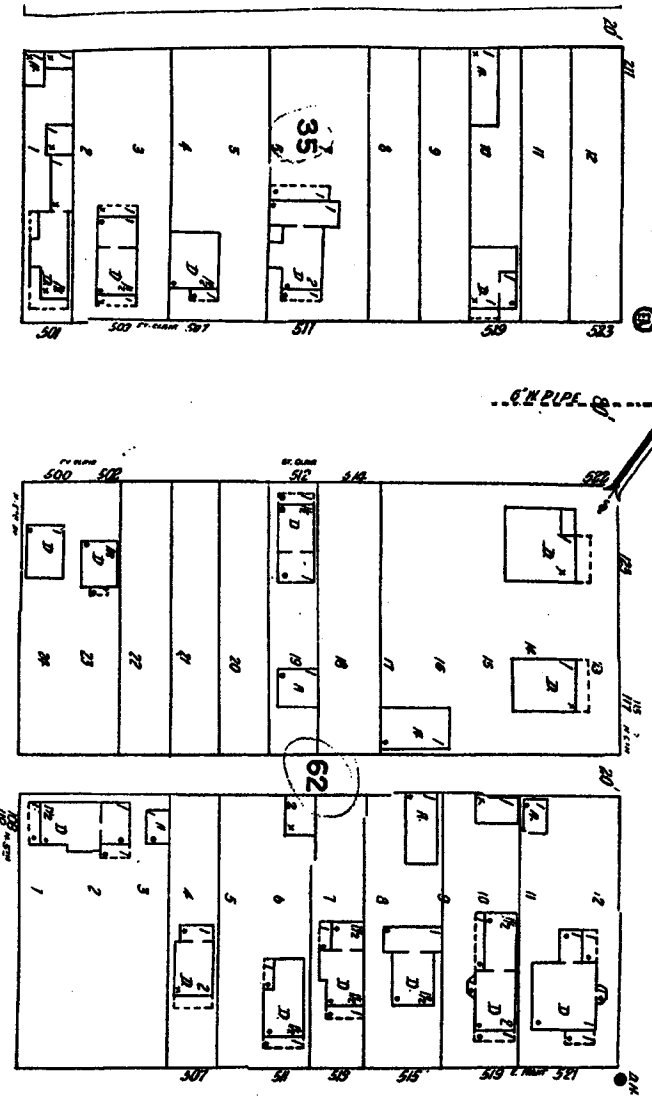
E. 2ND ST.

S. PRENTICE AV.

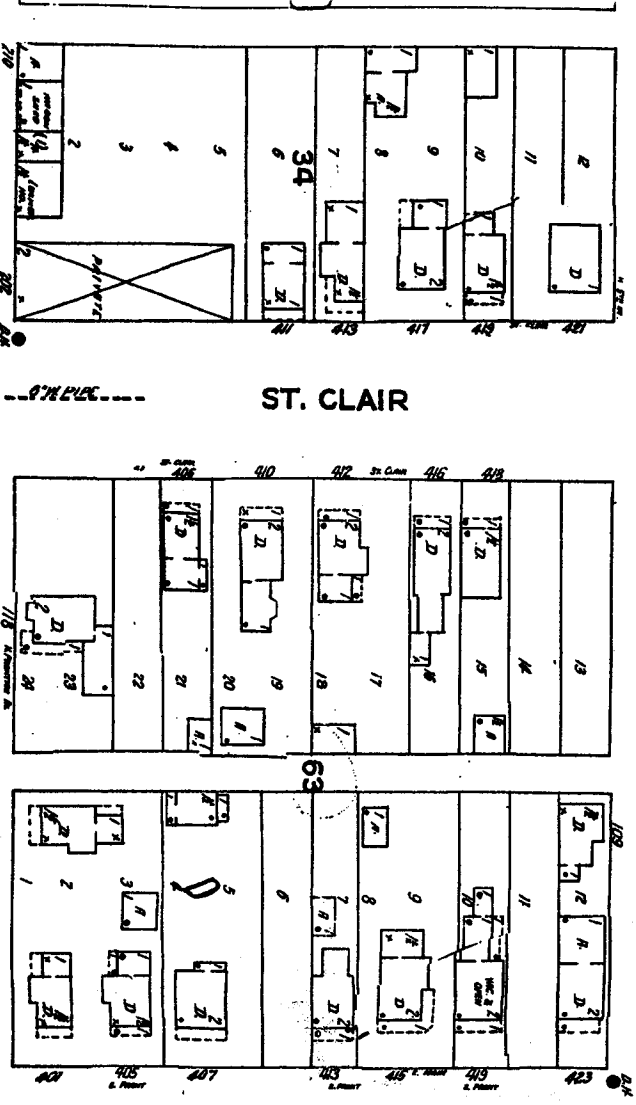


S. 3RD AV. E.

N. 6TH OR WILLIS AV. E.

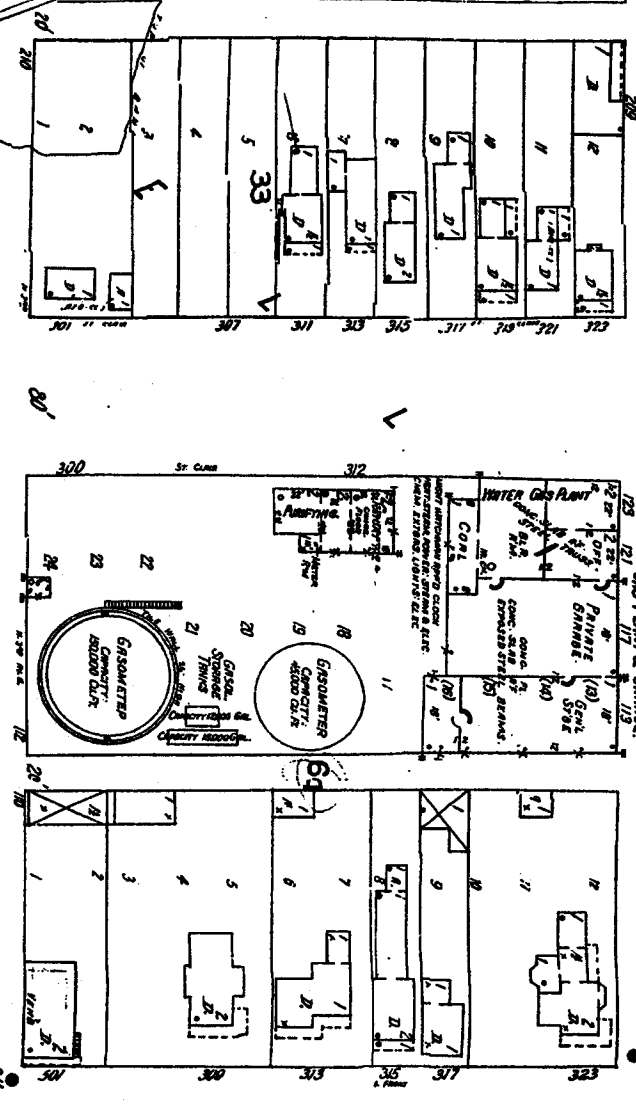


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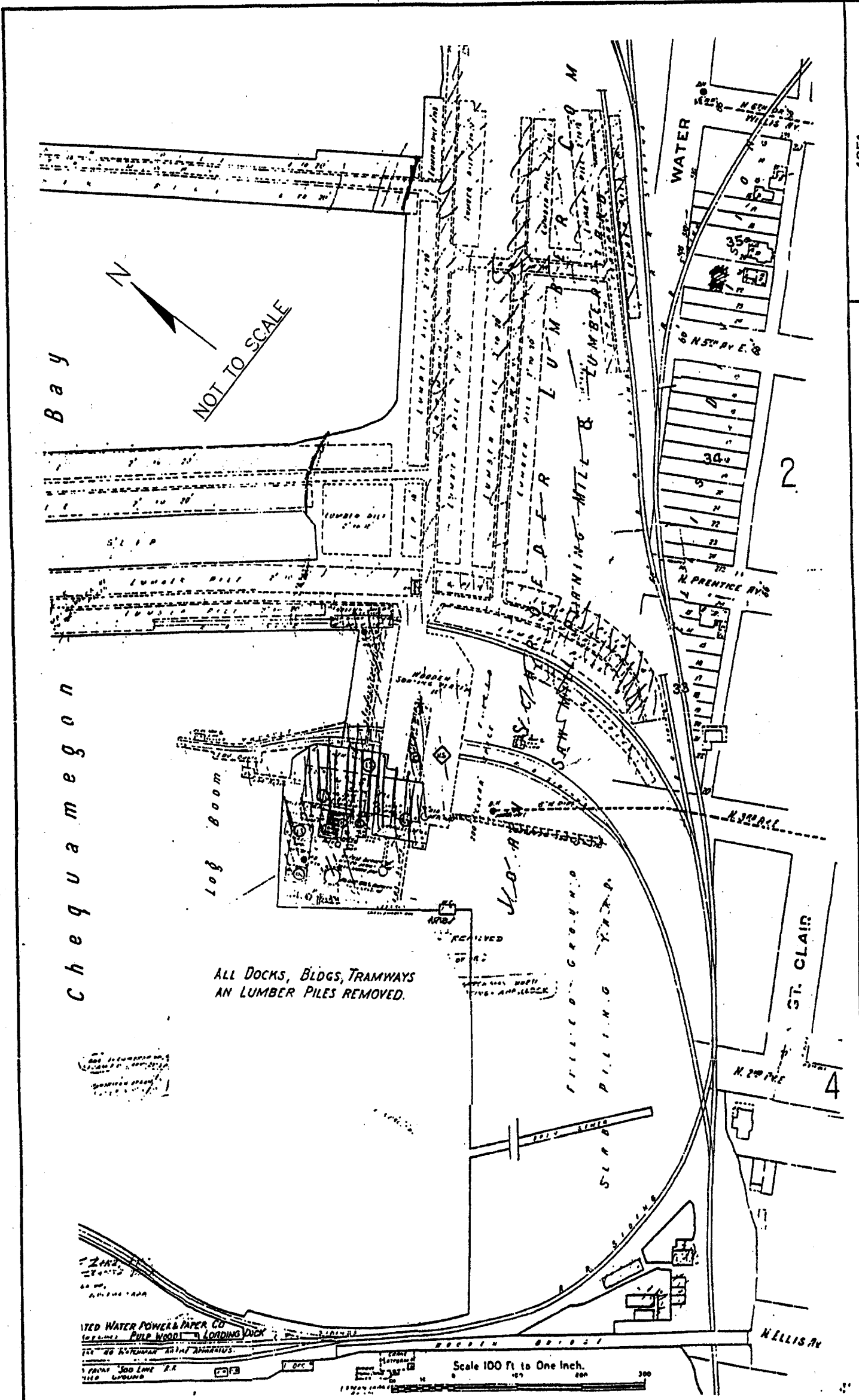
ST. CLAIR

N. PRENTICE 5 AV.



N. 3RD AV. E.

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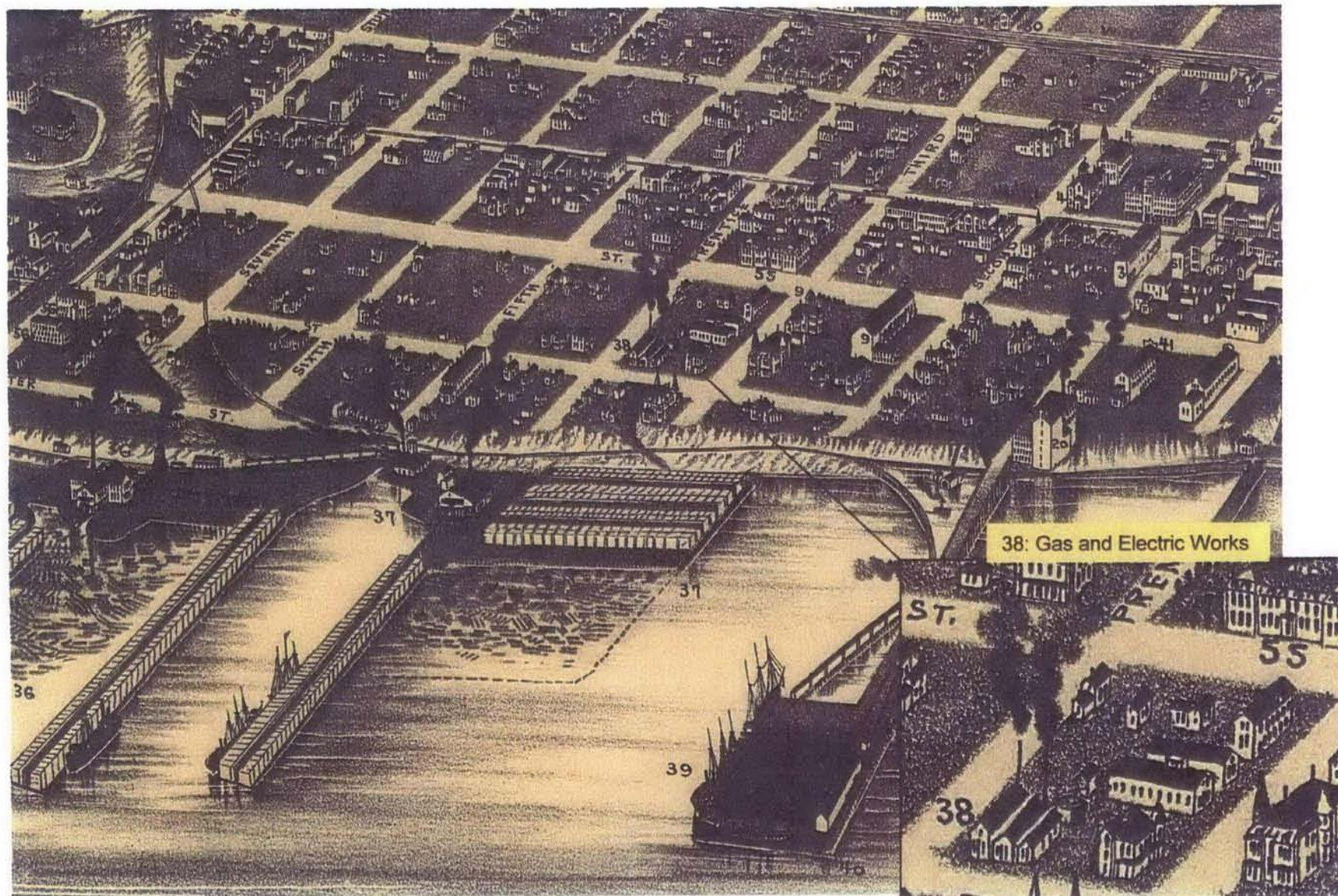


1951
LOWER FILL AREA

CITY OF ASHLAND - SANBORN MAPS

FILE NO.
WDR9401
DATE





Excerpt from 1890 Panoramic Map of Ashland, Wisconsin

ASHLAND LAKEFRONT HISTORICAL OWNERSHIP

BLOCK 25

Buyer (owner)	Seller	Date Acquired by Buyer	Date Sold by Buyer	Legal Description
John Schroeder Lumber Co.	Pope Lumber Co.	2/28/1901	1939	That part of Blocks 25, 26, 27 lying north of the railroad right of way.
Ashland County	John Schroeder Lumber Co.	1939 (tax deed)	1941, 1942	Blocks 25, 26, and lots 1-6 in Block 27.
Wis. Central Railway Co.	Ashland County	9/26/1941	present	All those parts of lots 1-6 in Block 25 which are included within 2 lines running parallel with and 8 ½' distant easterly & 8 ½' distant westerly measurment at right angles from the center line of Wis. Central R.R. Spur Tract #209.
City of Ashland	Ashland County	3/13/1942	present	Blocks 25, 26, 27, 28 less the right of way held by the railroad.

BLOCK 26

Buyer (owner)	Seller	Date Acquired by Buyer	Date Sold by Buyer	Legal Description
John Schroeder Lumber Co.	Pope Lumber Co.	2/28/1901	1939	Blocks 25, 26, 27 lying north of the railroad right of way
Ashland County	John Schroeder Lumber Co.	1939 (tax deed)	1942	Blocks 25, 26 and lots 1-6 in Block 27
City of Ashland	Ashland County	3/15/1942	present	Blocks 25, 26, 27, 28 less the right of way held by the railroad.

BLOCK 27

Buyer (owner)	Seller	Date Acquired by Buyer	Date Sold by Buyer	Legal Description
Wis. Central Railroad Co.	Phillips & Colby Construction Co.	12/19/1877	1/23/1883	Lots 1 & 2 in Block 27
John Schroeder Lumber Co.	Pope Lumber Co.	2/28/1901	1939	Conveys all of that part of Blocks 25, 26, 27 lying north of the railroad right of way

Buyer (owner)	Seller	Date Acquired by Buyer	Date Sold by Buyer	Legal Description
Ashland County	John Schroeder Lumber Co.	1939 (tax deed)	1942	Blocks 25, 26 and lots 1-6 in Block 27
City of Ashland	Ashland County	3/15/1942	present	Blocks 25, 26, 27, 28 less the right of way held by the railroad.

BLOCK 28

Buyer (owner)	Seller	Date Acquired by Buyer	Date Sold by Buyer	Legal Description
Wis. Central Railroad Co.	Phillips & Colby Construction Co.	12/19/1887	unknown	Lots 1-6 Block 28
John Schroeder Lumber Co.	?	?	1939	Block 28
Ashland County	John Schroeder Lumber Co.	1939 (tax deed)	1941, 1942	Blocks 25, 26, 27 and 28
Wis. Central	Ashland County	9/26/41	to Northland college ???	All that part of lot 1 in Block 28 which lies southerly of the following described line: Beginning at the point of intersection of the northeasterly line of 7 th Ave. E., with a line running parallel with and 50' distant northwesterly (measured at right angles) from the center line of Bay City Spur; thence southwesterly along the last mentioned parallel line and a line running parallel with and 50' distant northwesterly (measured at right angles) from the center line of the Wis. Cen. RR. Spur Tract #200 to a point where a curve to the right with a radius of 573.686' will begin in order to be tangent to a northeasterly extension of the southwesterly line of Block 29, thence southwesterly and northwesterly along said above mentioned curved line (hereinafter call the Northwesterly boundary line) to the point of intersection with the southwesterly line of Block 28.
City of Ashland	Ashland County	3/13/1942		Block 28 less the railroad right of way.
Northland College	Soo Line Railroad Co. (successor by merger to Wisconsin Central Railroad Co.)	4/21/1982		A parcel of land comprising ... Blocks 28, 29, 30, 31 (otherwise known as Fifield Place), 32, and 33 all in Ellis' Division... [See Exhibit A for complete legal desc.]

BLOCK 29

Buyer (owner)	Seller	Date Acquired by Buyer	Date Sold by Buyer	Legal Description
Wis. Central Railroad Co.	Phillips & Colby Construction Co.	12/19/1877	unknown	Lots 4, 5, 6 in Block 29
Northland College	Soo Line Railroad Co. (successor by merger to Wisconsin Central Railroad Co.)	4/2/1982	1986	A parcel of land comprising ... Blocks 28, 29, 30, 31 (otherwise known as Fifield Place), 32, and 33 all in Ellis' Division... <i>[See Exhibit A for complete legal desc.]</i>
City of Ashland	Northland College	1/30/1986	present	A parcel of land comprising ... Blocks 28, 29, 30, 31 (otherwise known as Fifield Place), 32, and 33 all in Ellis' Division... <i>[See Exhibit B for complete legal desc.]</i>

BLOCK 30

Buyer (owner)	Seller	Date Acquired by Buyer	Date Sold by Buyer	Legal Description
Wis. Central Railroad Co.	Phillips & Colby Construction Co.	12/19/1877		Lots 5 & 6 Block 30
Northland College	Soo Line Railroad Co. (successor by merger to Wisconsin Central Railroad Co.)	4/2/1982	1986	A parcel of land comprising ... Blocks 28, 29, 30, 31 (otherwise known as Fifield Place), 32, and 33 all in Ellis' Division... <i>[See Exhibit A for complete legal desc.]</i>
City of Ashland	Northland College	1/30/1986	present	A parcel of land comprising ... Blocks 28, 29, 30, 31 (otherwise known as Fifield Place), 32, and 33 all in Ellis' Division... <i>[See Exhibit B for complete legal desc.]</i>

BLOCK 31

Buyer (owner)	Seller	Date Acquired by Buyer	Date Sold by Buyer	Legal Description
Wis. Central Railroad	Rensalaen R. Nelson	7/9/1873	?	Lots 16 & 17 in Block 31
Wis. Central Railroad Co.	Edwin Ellis & Martha B. Ellis	7/29/1874	?	Right of way in lots 1-11 in Block 31
Wis. Central Railroad Co.	Phillips & Colby Construction Co.	12/19/1877	?	Lots 13, 14, 15, 18, 19, 20, 21, 22, 23, 24 in Block 31
Northland College	Soo Line Railroad Co. (successor by merger to Wisconsin Central Railroad Co.)	4/2/1982	1986	A parcel of land comprising ... Blocks 28, 29, 30, 31 (otherwise known as Fifield Place), 32, and 33 all in Ellis' Division... <i>[See Exhibit A for complete legal desc.]</i>
City of Ashland	Northland College	1/30/1986	present	A parcel of land comprising ... Blocks 28, 29, 30, 31 (otherwise known as Fifield Place), 32, and 33 all in Ellis' Division... <i>[See Exhibit B for complete legal desc.]</i>

BLOCK 32 (LOTS 1-5)

Buyer (owner)	Seller	Date Acquired by Buyer	Date Sold by Buyer	Legal Description
Wis. Central Railroad Co.	George Stuntz & Mary J. Stuntz	6/9/1874	?	Conveys a strip of land 50' wide on either side of the center of the railroad track in lots 1-5, Block 32.
Wis. Central Railroad Co.	John Burch & Cornelia S. Burch	2/23/1907	?	All those parts of lots 1-5 in Block 32 which are northerly of the Wis. Central Railway Co.
John Schroeder Lumber Co.	?	?	1939	All those parts of lots 1-5 in Block 32 lying north of the railroad right-of-way.
Ashland County	John Schroeder Lumber Co.	1939 (tax deed)	1941, 1942	All those parts of lots 1-5 in Block 32 lying north of the railroad right-of-way.
Wis. Central Railroad	Ashland County	9/26/1941	unknown	Those parts of lots 1-5 in Block 32 lying north of the railroad right-of-way.
City of Ashland	Ashland County	3/13/1942	present?	Lots 1-5 in Block 32 less the railroad right-of-way
Ralph Fromholz & Josephine Fromholz	City of Ashland	5/16/1956	8/29/1956	Those parts of Lots 1-5 lying south of the railroad right-of-way.

Buyer (owner)	Seller	Date Acquired by Buyer	Date Sold by Buyer	Legal Description
St. Agnes Catholic Congregation	Ralph Fromholz & Josephing Fromholz	8/29/1956	1992	Those parts of lots 1-5 lying south of the railroad right-of-way.
Northland College	Soo Line Railroad Co. (successor by merger to Wisconsin Central Railroad Co.)	4/2/1982	present	A parcel of land comprising ... Blocks 28, 29, 30, 31 (otherwise known as Fifield Place), 32, and 33 all in Ellis' Division... <i>[See Exhibit A for complete legal desc.]</i>
Our Lady of the Lake Catholic Congregation	St. Agnes Catholic Congregation	4/21/1992	present	That portion of St. Claire St. vacated between Blocks 32 and 65.
Ashland School District	Our Lady of the Lake Catholic Congregation	2/18/1994	present	A parcel of land located in part of Lots 1, 2, 3, 4, and 5, lying south of the railroad right-of-way in block 32, part of vacated St. Claire Street, and part of Lots 19, 20, 21, 22, 23, and 24 in Block 65, all in Ellis Division... <i>[See Exhibit C for complete legal desc.]</i>

BLOCK 32 (LOTS 6-12)

Buyer (owner)	Seller	Date Acquired by Buyer	Date Sold by Buyer	Legal Description
Wis. Central Railroad Co.	Cornelia C. Baker & Daniel A.J. Baker	8/27/1872		Conveys a tract of land running through the center of lot 12, Block 32.
Wis. Central Railroad Co.	George Stuntz & Mary J. Stuntz	6/9/1874		Conveys a strip 50' in width on each side of center line of track running through lot 6 in Block 32.
Wis. Central Railroad Co.	Edwin Ellis & Martha B. Ellis	7/29/1874		Right-of-way for railroad through the following lots 7, 8, 9, 10, 11 in Block 32 being 100' in width.
Ashland County	Ashland County	1879 (tax)	1885	Lot 12 in Block 32
St. Agnes Congregation	Rudolph J. Osradkar & Pricilla H. Osradkar	7/6/1955	1992	Lots 7, 8, 9, 10, 11, 12 lying south of the Wis. Central Railroad Co. right-of-way.
St. Agnes Congregation	Arthus S. Stephenson & Betty M. Stephenson	9/6/1955	1992	Lot 6 Block 32

Buyer (owner)	Seller	Date Acquired by Buyer	Date Sold by Buyer	Legal Description
Northland College	Soo Line Railroad Co. (successor by merger to Wisconsin Central Railroad Co.)	4/2/1982	present?	A parcel of land comprising ... Blocks 28, 29, 30, 31 (otherwise known as Fifield Place), 32, and 33 all in Ellis' Division... <i>[See Exhibit A for complete legal desc.]</i>
Our Lady of the Lake Catholic Community	St. Agnes Congregation	4/21/1992	present	Conveys all that part of lots 1-12 in Block 32 lying and being south of the right-of-way of the Wis. Central Railway Co. and that portion of St. Claire Street vacated between Blocks 32-65.

BLOCK 32 (LOTS 13-24)

Buyer (owner)	Seller	Date Acquired by Buyer	Date Sold by Buyer	Legal Description
Wis. Central Railway Co.	Samuel S. Eustis & Emily S. Eustis	10/12/1872		A tract of land 100' wide running through Lot 13 in Block 32 for the establishment of a railroad track.
Wis. Central Railroad Co.	Phillips & Colby construction Co.	12/19/1877		Lots 14, 15, 16, 17, 18 in Block 32
Ashland County	Ashland County	4/24/1879 (tax)	1880	Lots 12, 13, 19, 20, 21, 22, in Block 32
Ashland County	Ashland County	1879 (tax deed)	1884	Lots 19, 20, 21, 22 in Block 32
John Schroeder Lumber Co.	Pope Lumber Co.	2/28/1901	1939	Lots 13, 14, 15, 16 in Block 32
John Schroeder Lumber co.	Wausau Title Co.	1/9/1907	1939	Lot 18 in Block 32
Wis. Central Railway Co.	John H. Burch & Cornelia Burch	2/23/1907		Lots 19, 20, 21, 22, 23, 24 which lies northerly of the right-of-way of the railroad.
Ashland County	John Schroeder Lumber Co.	1939 (tax)	1941, 1942	All that part of Lots 1-5 north of the railroad right-of-way. Lots 13-24 (saw mill plant). That part of lots 17-24, Block 33 north of the railroad right-of-way.
Wis. Central Railway Co.	Ashland County	9/26/1941		All those parts of lots 1-5 which lies northwesterly of a line running parallel with & 50' distant southeasterly from said Commercial Dock Track. All lots 19-24. Those parts of lots 13-18 which lie southerly of said northwesterly boundary line.

Buyer (owner)	Seller	Date Acquired by Buyer	Date Sold by Buyer	Legal Description
City of Ashland	Ashland County	3/13/42	present	Lots 1-5 less the railroad right-of-way, lots 13-24 (saw mill plant), Lots 17-24 north of the railroad right-of-way Block 33, less the right-of-ways held by Wis. Central Railroad Co.
Northland College	Soo Line Railroad Co.	4/2/1982	present?	A parcel of land comprising ... Blocks 28, 29, 30, 31 (otherwise known as Fifield Place), 32, and 33 all in Ellis' Division... <i>[See Exhibit A for complete legal desc.]</i>

BLOCK 33

Buyer (owner)	Seller	Date Acquired by Buyer	Date Sold by Buyer	Legal Description
Wis. Central Railroad Co.	Cornelia Baker & Daniel A.J. Baker	8/27/1872		Conveys a tract of land 100' wide in lots 15 & 16 Block 33
Wis. Central Railroad Co.	Edwin Ellis & Martha B. Ellis	7/10/1874		Right-of-way 100' wide through lots 13, 14, 17, 18, 24 in Block 33.
Wis. Central Railroad	Phillips & Colby Construction Co.	12/19/1877		Lots 13, 14, 19, 20, 21, 22, 23, 24 in Block 33
Ashland County	Ashland County	4/10/1879 (tax)	1881	Lots 15, 16, 17, 18, Block 33
Wis. Central Railroad Co.	Edwin Abbot & Martha T. Abbot	4/22/1891		Lots 13 & 14 except for the railroad right-of-way.
John Schroeder Lumber Co.	Pope Lumber Co.	2/28/1901	1939	All that part of Block 33 lying north of the railroad right-of-way and east of the boundary line between Lots 17 & 18 in Block 33 extended to a direct line to the government dock line in front of said property. also part of Block 33 lying north of the Wis. Central Railroad right-of-way and west of the boundary line between 17 & 18 extended in a direct line to the government dock line in front of said property.
John Schroeder Lumber co.	Charles H. Shiffeld & Louisa M. Shiffeld	8/2/1902	1939	Lots 13 & 14 in Block 33 less the railroad right-of-way.
John Schroeder Lumber Co.	Alice Sheridan, Nellie Smith, Martin Sheridan, Minie Welsh	3/1/1906	1939	All those parts of lots 15 & 16 in Block 33 on the south side of the railroad track and not situated within 50' of center of the track.

Buyer (owner)	Seller	Date Acquired by Buyer	Date Sold by Buyer	Legal Description
John Schroeder Lumber co.	Ashland County	1924	1939	Conveys lots 17 & 18 in Block 33
Peter Lorenzo	John Schroeder Lumber co.	6/28/1939		All those parts of lots 13, 14, 15, 16 in Block 33 lying and being south of the railroad right-of-way which extends 50' south of center southerly track of the railroad.
Ashland County	John Schroeder Lumber Co.	12/21/1939	1941, 1942	Conveys lots 17, 18, 19, 20, 21, 22, 23, 24 north of the railroad right-of-way in Block 33
Wis. Central Railroad	Ashland County	9/26/41		Conveys all parts of lots 17-24 in Block 33 which lie northwest of a line running parallel with and 50' distant southeast from the center line of commercial dock track and southeast of the northwest boundary line.
City of Ashland	Ashland County	3/13/42	present	Conveys lots 17 & 18 in Block 33 north of the railroad right-of-way.
Ashland County	Ashland County	3/25/1947 (tax deed)		Lots 13, 14, 15, 16 in Block 33
Lake Superior District Power	Ashland County	4/6/1978 (Easement)		Conveys that part of lots 13-16 inclusive Block 33 lying north of Wis. Central Railroad Co. right-of-way.
Lake Superior District Power	City of Ashland	4/6/78 (Easement)		Conveys an easement on that part of lots 17-24 in Block 33 lying north of the Wis. Central Railroad Co. tract except a 17' wide strip of land which runs through lots 21 & 22 being the Wis. Central Railway Spur Tract as in Vol. 156 Pg. 4a9.
Nothland College	Soo Line Railroad	4/2/1982	present?	A parcel of land comprising ... Blocks 28, 29, 30, 31 (otherwise known as Fifield Place), 32, and 33 all in Ellis' Division... [See Exhibit A for complete legal desc.]

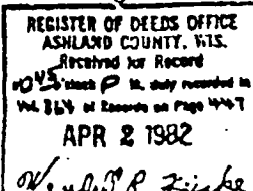
Exhibit A

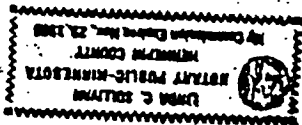
Vol 364 Records 447

THIS INDENTURE, Made by SOO LINE RAILROAD COMPANY, successor by merger to Wisconsin Central Railroad Company and Minneapolis, St. Paul & Sault Ste. Marie Railroad Company, a Corporation duly organized and existing under and by virtue of the laws of the State of Minnesota, Grantor, of Minneapolis, Hennepin County, Minnesota, 55402, hereby quit claims, transfers, grants and conveys unto NORTHLAND COLLEGE, a Wisconsin non-profit corporation, Grantee, of Ashland County, Wisconsin, as a gift, the following tract of land in Ashland County, State of Wisconsin:

A parcel of land comprising Blocks 401, 402, 403, 404, 405, 406, 30, 68, and 69, all in Vaughn's Division, Blocks 28, 29, 30, 31 (otherwise known as Fifield Place), 32, and 33, all in Ellis' Division, and all intervening streets and alleys, vacated or to be vacated, all in the City of Ashland, Ashland County, Wisconsin, according to the plats thereof on file and of record in the Office of the Register of Deeds in and for said County; also the so-called Commercial Dock, all lying and being within the following description: commencing at the point of intersection of the northeasterly line of Seventh Avenue East in the City of Ashland with a line running parallel with and fifty (50) feet distant northwesterly (measured at right angles) from the center line of the Soo Line Railroad Company's so-called Bay City Spur as now located, maintained and operated over and across Blocks 37, 36, 21, and 22, all in said Ellis' Division; thence westerly along a line running parallel with and fifty (50) feet distant northwesterly (measured at right angles) from the center line of said Bay City Spur and the center line of the so-called Commercial Dock Track (now known as the main line track) of the Soo Line Railroad Company's Railroad as the same is now located, maintained, and operated over and across said lands to a point in the Northerly line of Block 33, Ellis' Division where a curve to the right, with a radius of five hundred seventy-three and six hundred eighty-six thousandths (573.686) feet, will start in order to be tangent to a line drawn parallel with and 125 feet distant southwesterly (measured at right angles) from the southwesterly line of Second Avenue East in the City of Ashland, being the actual point of beginning of the land herein described; thence southwesterly, westerly, and northwesterly on said above mentioned curved line to a point 125 feet distant southwesterly from said southwesterly line of Second Avenue East extended northwesterly; thence northwesterly on a line drawn parallel with and 125 feet distant southwesterly (measured at right angles) from said southwesterly line of Second Avenue East extended northwesterly to the established Government Dock Line (Harbor Line) in said Chequamegon Bay; thence westerly along said Government Dock Line to a point of intersection with the northerly extension of the westerly line of Block 69 in said Vaughn's Division; thence southerly along said westerly line of Block 69 extended northerly to a point of intersection with a line running parallel with and fifty (50) feet distant northwesterly (measured at right angles) from the center line of the main track of the Soo Line Railroad Company's railroad as the same is now located, maintained, and operated over and across said lands; thence northeasterly along the last mentioned parallel line to a point of intersection with the westerly line of said Block 33, Ellis' Division; thence easterly in a straight line

X204751





This instrument was drafted by
500 Line Railroad Company
1601 800 Line Building
Minneapolis, Minnesota 55402

Personally came before me this
15th day of December
A.D. 1981, Thomas M. Beckley, President, and Arlene R. Holmes, Secretary
of the above named Corporation to me known to be the persons who executed
the foregoing instrument, and to me known to be such President and
Secretary of said Corporation, and acknowledged that they executed the
foregoing instrument as such officers as the deed of said Corporation, by
its authority.

STATE OF MINNESOTA
(SS)
COUNTY OF HENNEPIN

By Thomas M. Beckley
Arlene R. Holmes
Its Secretary
Counter-signed:
Thomas M. Beckley
Its President
500 LINE RAILROAD COMPANY

John A. Johnson
John J. Berry
Signed and Sealed
in Presence of:

IN WITNESS WHEREOF, the said grantor has caused these presents to be
signed by Thomas M. Beckley, its President, and counter-signed by
Arlene R. Holmes, its Secretary, at Minneapolis, Minnesota, and its
corporate seal to be hereunto affixed, this
15th day of
December, 1981.

Subject to any and all existing utilities and easements, leases,
licenses and permits heretofore granted by the Grantor, or its
predecessors in interest, affecting the herein described premises.
Reserving in the Grantor, its successors and assigns, all oil, gas
and other minerals, in or under or produced from said land, together with
full right through its servants, employees, agents, licensees or
appointees, to enter and re-enter into and upon and pass over and across
said lands for the purpose of exploring for, mining and removing such
oil, gas and other minerals, or any of them, at all times in such a
manner as to not unnecessarily damage the surface of said premises
thereby.

to the point of beginning; it being the intent of the
Soo Line Railroad Company to convey all the up-land,
filled land, including the so-called Commercial Dock,
and riparian rights that it owns lying within the
above description. EXCEPTING therefrom all that part
lying northeasterly of the northwesterly extension of
the southwesterly line of said Second Avenue East.

271000

99700

Exhibit B

THIS INDENTURE, Made by Northland College

a Corporation duly organized and existing under and by virtue of the laws of the State of Wisconsin, grantor, of Ashland County, Wisconsin, hereby conveys and warrants to City of Ashland, a municipal corporation

grantee of Ashland County, Wisconsin, for the sum of valuable consideration

the following tract of land in Ashland County, State of Wisconsin:

A parcel of land comprising Blocks Four Hundred and One (401), Four Hundred and Two (402), Four Hundred and Three (403), Four Hundred and Four (404), Four Hundred and Five (405), Fractional Block Four Hundred and Six (406), part of the Northerly One-Half (N 1/2) of Block Sixty-eight (68) and Sixty-nine (69), all in Vaughn's Division; all of Blocks Twenty-nine (29) and Thirty (30), Lots Thirteen (13) through Twenty-four (24), inclusive, Block Thirty-one (31), all in Ellis Division; and Lots Eight (8) and Nine (9) of Fifield Place; and all intervening streets, avenues and alleys, vacated or to be vacated, all in the City of Ashland, Ashland County, Wisconsin; also the so-called Commercial Dock, all lying and being within the following metes and bounds description:

Commencing at the point of intersection of the Northeasterly line of Seventh Avenue East in the City of Ashland with a line running parallel with and fifty (50) feet distant Northwesterly (measured at right angles) from the center line of the Soo Line Railroad Company's so-called Bay City Spur as now located, maintained and operated over and across Blocks Thirty-seven (37), Thirty-six (36), Twenty-one (21) and Twenty-two (22), all in said Ellis Division;

Thence Westerly along a line running parallel with and fifty (50) feet distant Northwesterly (measured at right angles) from the center line of said Bay City Spur and the center line of the so-called Commercial Dock Track (now known as the main line track) of the Soo Line Railroad Company's Railroad as the same is now located, maintained and operated over and across said lands to a point in the Northerly line of Block Thirty-three (33), Ellis Division, where a curve to the right, with a radius of Five Hundred Seventy-three and Six Hundred and Eighty-six Thousandths (573.686) feet, will start in order to be tangent to a line drawn parallel with and One Hundred and Twenty-five (125) feet distant Southwesterly (measured at right angles) from the Southwesterly line of Second Avenue East in the City of Ashland, being the actual point of beginning of the land herein described;

Thence Southwesterly, Westerly and Northwesterly on said above mentioned curved line to a point One Hundred and Twenty-five (125) feet distant Southwesterly from said Southwesterly line of Second Avenue East extended Northwesterly; (description continued on reverse side)

(IF NECESSARY, CONTINUE DESCRIPTION ON REVERSE SIDE)

In Witness Whereof, the said grantor has caused these presents to be signed by Malcolm McLean

its Secretary, at Ashland, its President, and countersigned by Joseph M. Jauquet its Secretary, at Ashland, Wisconsin, and its corporate seal to be hereunto affixed this 23rd day of January, A. D., 1986.

SIGNED AND SEALED IN PRESENCE OF

Carolyn Tarasewicz
Carolyn Tarasewicz

Harvey Haukaas
Harvey Haukaas

NORTHLAND COLLEGE

Malcolm McLean Corporate Name
Malcolm McLean President

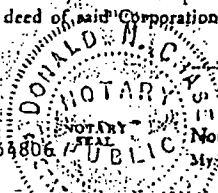
COUNTERSIGNED:
Joseph M. Jauquet Secretary

STATE OF WISCONSIN

Ashland County, ss.

Personally came before me, this 23 day of January, A. D., 1986, Malcolm McLean, President, and Joseph M. Jauquet, Secretary of the above named Corporation, to me known to be the persons who executed the foregoing instrument, and to me known to be such President and Secretary of said Corporation, and acknowledged that they executed the foregoing instrument as such officers as the deed of said Corporation, by its authority.

THIS INSTRUMENT WAS DRAFTED BY
Scott W. Clark
Ashland, Wisconsin



Notary Public, Ashland County, Wis.
My commission (expires) (is) 3/16/1986

Vol 396 PG 148

REGISTER OF DEEDS OFFICE
ASHLAND COUNTY, WIS.
Recorded in Record
at 10:45 clock of A. M. only recorded in
Vol. 396 of Record's on page 148
JAN 30 1986
Wendell R. Friake
REGISTER OF DEEDS

RETURN TO

TAX EMEMPT #2

Thence Northwesterly on a line drawn parallel with and one hundred and twenty (125) feet distant Southwesterly (measured at right angles) from said Southwesterly line of Second Avenue East extended Northwesterly to the established Government Dock Line (Harbor Line) in said Chequamegon Bay;

Thence Westerly along said Government Dock Line to a point of intersection with the Northerly extension of the Westerly line of Block Sixty-nine (69) in said Vaughn's Division;

Thence Southerly along said Westerly line of Block Sixty-nine (69) extended Northerly to a point of intersection with a line running parallel with and fifty (50) feet distant Northwesterly (measured at right angles) from the center line of the main track of the Soo Line Railroad Company's railroad as the same is now located, maintained and operated over and across said lands;

Thence Northeasterly along the last mentioned parallel line to a point of intersection with the Westerly line of said Block Thirty-Three (33), Ellis Division;

Thence Easterly in a straight line to the point of beginning.

EXCEPTING therefrom all that part lying Northeasterly of the Northwesterly extension of the Southwesterly line of said Second Avenue East;

AND EXCEPTING that portion of Vacated St. Claire Street lying between the Westerly line of Ellis Avenue and the extended Westerly line of Lot Seventeen (17), Block Sixty-seven (67), Ellis Division, and Fractional Lots One (1) through Five (5), inclusive, of that Block lying North of Lots Thirteen (13) through Seventeen (17), inclusive, Block Sixty-seven (67), Ellis Division, sometimes described as Block Four Hundred and Six (406) and as Block Four Hundred and Sixteen (416) of Ellis Division;

AND EXCEPTING part of Lot Nine (9) lying Southerly of a line fifty (50) feet Southerly of said Commercial Dock Track, Fifield Place.

16LWW

PROPERTY DESCRIPTION

A parcel of land located in part of Lots One (1), Two (2), Three (3), Four (4) and Five (5), lying south of the railroad right-of-way in Block Thirty-two (32), part of vacated St. Claire Street, and part of Lots Nineteen (19), Twenty (20), Twenty-one (21), Twenty-two (22), Twenty-three (23) and Twenty-four (24), Block Sixty-five (65), all in Ellis Division, in the City of Ashland, Ashland County, Wisconsin.

Commencing at the intersection of centerlines of 2nd Avenue East and St. Claire Street; Thence No. $58^{\circ} 00' 00''$ East, 33.00 feet along the centerline of St. Claire Street; Thence N. $32^{\circ} 00' 00''$ West, 47.29 feet to a set 1 1/4" iron pipe being the Point of Beginning;

Thence N. $50^{\circ} 32' 52''$ East, 100.07 feet along the south right-of-way of the railroad to a set 1 1/4" iron pipe;

Thence S. $70^{\circ} 05' 31''$ East, 65.72 feet to a set 1 1/4" iron pipe;

Thence S. $34^{\circ} 18' 43''$ East, 52.93 feet to a set 1 1/4" iron pipe;

Thence S. $55^{\circ} 41' 17''$ West, 142.02 feet to a set 1 1/4" iron pipe on the East right-of-way of 2nd Avenue East;

Thence N. $32^{\circ} 00' 00''$ West, 97.36 feet to the Point of Beginning.

Parcel contains 13,391 sq. ft., 0.30 acres.

Bearings are assumed N. $32^{\circ} 00' 00''$ West along the centerline of 2nd Avenue East.

REVERSION

- UPON: 1. Grantee, its assigns, or successors ceasing to operate a Title I Educational Program to Our Lady of the Lake students on the above described premises, for longer than twenty-four (24) months; or
2. Grantor determining that the above described premises is required for building project needs of grantor, giving twenty-four (24) months written notice to grantee;

Then this deed shall be null and void, and the grantor shall have the right to enter upon the premises conveyed and to hold and own same as fully as if this conveyance had not been made.

NORTH WISCONSIN ABSTRACT COMPANY

212 WEST SECOND STREET
P.O. BOX 311
ASHLAND, WISCONSIN
54806

L E LEE
ABTRACTER

PHONE (715) 682-4234

"Complete Abstracting and Title Service in both Ashland and Bayfield Counties"
AGENTS FOR CHICAGO TITLE INSURANCE COMPANY

March 17, 1995

Mr. Pete Erickson
Northern States Power Company
301 East Lake Shore Drive
Ashland, Wisconsin 54806

Dear Mr. Erickson:

Enclosed please find our report of the recorded deeds resulting from a grantor-grantee search of the Ashland County, Wisconsin records for the real estate located along the Bay Front in the City of Ashland and lying Northerly of the railroad right-of-way between Prentice and Ellis Avenues.

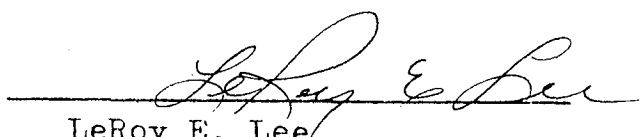
The report has been segmented by legal description in an effort to more easily enable the following of the various chains of title.

We have kept a copy to facilitate the resolution of any questions which may arise.

Sincerely,

NORTH WISCONSIN ABSTRACT COMPANY

By


LeRoy E. Lee

LEL:vb

Enc.

cc: Mr. John W. Vaughan ✓
Veritas Associates, Inc.
P.O. Box 571
Needham, Ma. 02194

000741

ASHLAND COUNTY WIS
Sec's 32-33 & 34 - T.48N-R.4W.

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REF ID: A111111

000742

ELLIS DIVISION
Block 25
Lots 1 - 6 inclusive

<u>Grantor</u>	<u>Grantee</u>	<u>Vol/Pg</u>	<u>Inst.</u>	<u>WD/QC</u>	<u>Date</u>	<u>Cons.</u>	<u>Rec. Date</u>	<u>Description</u>
Edwin Ellis Martha B. Ellis	Alexander Ellis	1/156	-	QC	8/2/1861	3000	-	All lots and blocks in Bay City
Edwin Ellis Martha B. Ellis	Lucy Barber Tirzah Poor Francis X. Poor Lisa Prentice	12/100	10533	WD	10/30/1882	1.00	1/23/1883	Block 25 and Block 26
George B. Best Emma L. Best	Thomas Bardon	12/134	10562½	QC	2/5/1883	1000	2/9/1883	Blocks 25, 26 and lots 1 & 2 in Block 27
Lisa Prentice Francis X. Poor Tirzah Poor Lucy Barber	Charles H. Kingman	15/168	11460	WD	12/31/1883	5000	12/31/1883	Blocks 25, 26, 27
Frank M. Wood Maria Wood	Charles H. Kingman	15/302	X12127	QC	7/28/1884	1.00	8/26/1884	Blocks 25, 26, 27
Charles H. Kingman	Frank Wood	16/59	11504	QC	1/8/1884	3000	6/14/1884	Blocks 25, 26, 27
Charles H. Kingman Elizabeth P. Kingman	Charles C. Collins	17/35	12669	QC	12/1/1884	2000	2/7/1885	Blocks 25, 26, 27

000743

<u>Grantor</u>	<u>Grantee</u>	<u>Vol/Pg</u>	<u>Inst.</u>	<u>WD/QC</u>	<u>Date</u>	<u>Cons.</u>	<u>Rec. Date</u>	<u>Description</u>
Charles C. Collins	W. R. Sutherland Wm. Tompkins	34/173	8049a	WD	2/3/1888	25500	2/9/1888	Blocks 25, 26 & lots 1 & 2 Block 27
J. R. Sutherland and Jane Sutherland	A. P. Wood	41/70	11911a	WD	5/31/1889	10000	7/5/1889	Undivided 1/4 of Blocks 25, 26 and lots 1 & 2 in Block 27, excepting for railroad right of way
A. P. Wood Margaret Wood	W. R. Sutherland	51/80	X148	WD	8/16/1892	10000	8/17/1892	Undivided 1/4 of Blocks 25, 26 and lots 1 & 2 in Block 27, excepting for railroad right of way
J. R. Sutherland Jane Sutherland	Sutherland Lumber Company	39/558	X3890	QC	1/28/1895	30000	1/28/1895	Undivided 1/2 of Blocks 25, 26 and lots 1 & 2 in Block 27
Wm. Tompkins Elizabeth Tompkins	Ashland Realty Company	39/628	X5188	QC	9/13/1894	15000	12/26/1895	Undivided 1/2 of Blocks 25, 26 and lots 1 & 2 in Block 27
Hilber G. Davis Trustee of Pope Lumber Co.	John Schroeder Lumber Company	73/23	X13566	Trustee	10/1901	30000	2/28/1901	That part of Blocks 25, 26, 27 lying north of the railroad right of way
Sheriff of Ashland County	A. W. Sanborn	73/89	X13917	Sheriff	9/19/1899	7735	4/30/1901	Block 25

000744

<u>Grantor</u>	<u>Grantee</u>	<u>Vol/Pg</u>	<u>Inst.</u>	<u>WD/DC</u>	<u>Date</u>	<u>Cons.</u>	<u>Rec. Date</u>	<u>Description</u>
Ashland County	Ashland County	151/175	X102123	Tax	3/29/1939	1123.41	3/31/1939	Undivided 1/2 of Blocks 25, 26 and lots 1-6 in Blk. 27 Sale date 6/14/1938 (total sale price was \$2246.79 redeemed by John Schroeder Lumber Company)
Ashland County	Ashland County	151/182	X102168	Correction Deed for 151/175	4/12/1939	1123.41	4/12/1939	Blocks 25, 26 and lots 1-6 in Blk. 27 Sale date 6/14/1938
Ashland County	Ashland County	151/194	X102642	Tax	7/11/1939	2954	7/11/1939	Blocks 25, 26, 27 Sale date 8/1/1938
John Schroeder Lumber Co.	County of Ashland	156/317	X103493	QC	12/6/1939		12/21/1939	All of Blocks 25, 26 and lots 1-6 in Block 27
Ashland County	Wis. Central Railway Co.	156/429	X106847	DC	8/12/1941	1.00	9/26/1941	All those parts of lots 1-6 in block 25 which are included within two lines running parallel with and 8 1/2' distant easterly & 8 1/2' distant westerly measurement at right angles from the center line of Wis. Central R.R. Spur Tract #209

541000

<u>Grantor</u>	<u>Grantee</u>	<u>Vol/Fg</u>	<u>Inst.</u>	<u>WD/EC</u>	<u>Date</u>	<u>Cons.</u>	<u>Rec. Date</u>	<u>Description</u>
Ashland County	City of Ashland	168/52	X107607	QC	3/12/1942	1.00	3/13/1942	Blocks 25, 26, 27, 28 less the right of way held by the railroad

000746

ELLIS DIVISION
Block 26
Lots 1 - 6 inclusive

<u>Grantor</u>	<u>Grantee</u>	<u>Vol/Pg</u>	<u>Inst.</u>	<u>WD/QC</u>	<u>Date</u>	<u>Cons.</u>	<u>Rec. Date</u>	<u>Description</u>
Edwin Ellis Martha B. Ellis	Alexander Ellis	1/156	-	QC	8/2/1861	3000	-	All lots and Blocks in Bay City
Edwin Ellis Martha B. Ellis	Lucy Barber Tirzah Poor Francis X. Poor Lisa Prentice	12/100	10533	WD	10/30/1882	1.00	1/23/1883	Blocks 25 & 26
George B. Best Emma L. Best	Thomas Bardon	12/134	1056½	QC	2/5/1883	1000	2/9/1883	Blocks 25, 26 and lots 1 & 2 in Block 27
Lisa Prentice Francis X. Poor Tirzah Poor Lucy A. Barber	Charles H. Kingman	15/168	11460	WD	12/31/1883	5000	12/31/1883	Blocks 25, 26, 27
Frank M. Wood Maria Wood	Charles H. Kingman	15/302	X12127	QC	7/28/1884	1.00	8/26/1884	Blocks 25, 26, 27
Charles H. Kingman	Frank M. Wood	16/59	11504	QC	1/ 8/1884	3000	6/14/1884	Blocks 25, 26, 27
Charles H. Kingman Elizabeth P. Kingman	Charles C. Collins	17/35	12669	QC	12/1/1884	2000	2/7/1887	Blocks 25, 26, 27

000747

<u>Grantor</u>	<u>Grantee</u>	<u>Vol/Pg</u>	<u>Inst.</u>	<u>WD/QC</u>	<u>Date</u>	<u>Cons.</u>	<u>Rec. Date</u>	<u>Description</u>
Charles C. Collins	W. R. Sutherland Wm. Tompkins	34/173	8049a	WD	2/3/1888	25500	2/9/1888	Blocks 25, 26 & lots 1 & 2 Block 27
W. R. Sutherland Jame Sutherland	A. P. Wood	41/70	11911a	WD	5/31/1889	10000	7/5/1889	Undivided 1/4 of Blocks 25, 26 and lots 1 & 2 in Block 27, excepting for railroad right of way
A. P. Wood Margaret Wood	W. R. Sutherland	51/80	X148	WD	8/16/1892	10000	8/17/1892	Undivided 1/4 of Blocks 25, 26 and lots 1 & 2 in Block 27, excepting for railroad right of way
W. R. Sutherland Jane Sutherland	Sutherland Lumber Company	39/558	X3890	QC	1/28/1895	30000	1/28/1895	Undivided 1/2 of Blocks 25, 26 and lots 1 & 2 in Block 27
Wm. Tompkins Elizabeth Tompkins	Ashland Realty Company	39/628	X5188	QC	9/13/1894	15000	12/26/1895	Undivided 1/2 of Blocks 25, 26 and lots 1 & 2 in Block 27
Ashland Realty Company	R. C. Pope W. G. Davis	67/18	X6428	WD	10/27/1896	10000	11/12/1876	Conveys all that part of blocks 26 & 27 lying north of railroad right of way and west of the boundary line between lots 17 & 18 in blk. 33 extended in a direct line to gov. dock line

000748

<u>Grantor</u>	<u>Grantee</u>	<u>Vol/Pg</u>	<u>Inst.</u>	<u>WD/QC</u>	<u>Date</u>	<u>Cons.</u>	<u>Rec. Date</u>	<u>Description</u>
R. C. Pope Katie Pope W. G. Davis Jemima Davis	Pope Lumber	63/165	X8021	WD	11/9/1897	5000	11/20/1897	Conveys all that part of Blocks 26 & 27 lying north of railroad right of way and west of the boundary line between lots 17 & 18 in block 33 extended in a direct line to the government dock line in front of said property
Ashland Realty Company	R. C. Pope W. G. Davis	63/220	X9064	WD	10/27/1896	10000	9/28/1898	Conveys all that part of Blocks 26 & 27 lying north of railroad right of way and west of the boundary line between lots 17 & 18 in Block 33 extended in a direct line to the government dock line in front of said property (Correction Deed for 67/18)
Wilber G. Davis Trustee of Pope Lumber Co.	John Schroeder Lumber Company	73/23	X 13566	Trustee/	10/1901	30000	2/28/1901	Blocks 25, 26, 27 lying north of railroad right of way

000749

<u>Grantor</u>	<u>Grantee</u>	<u>Vol/Pg</u>	<u>Inst.</u>	<u>WD/QC</u>	<u>Date</u>	<u>Cons.</u>	<u>Rec. Date</u>	<u>Description</u>
Ashland County	Ashland County	151/175	X102123	Tax	3/29/1939	1123.41	3/31/1939	Undivided 1/2 of Blocks 25, 26 and lots 1-6 in Blk. 27 Sale date 6/14/1932 (total sale price was \$2246.79 redeemed by John Schroeder Lumber Company)
Ashland County	Ashland County	151/182	X102168	Correction Deed for 151/175	4/12/1939	1123.41	4/12/1939	Blocks 25, 26 and lots 1-6 in Blk. 27 Sale 6/14/1932
Ashland County	Ashland County	151/194	X102642	Tax	7/11/1939	2954	7/11/1939	Blocks 25, 26, 27 Sale date 8/1/1932
John Schroeder Lumber Co.	County of Ashland	156/317	X103493	QC	12/6/1939		12/21/1939	All of Blocks 25, 26 and lots 1-6 in Block 27
Ashland County	City of Ashland	168/52	X107607	QC	3/12/1942	1.00	3/15/1942	Blocks 25, 26, 27, 28 less the right of way held by the railroad

000750

ELLIS DIVISION
Block 27
Lots 1 - 6 inclusive

<u>Grantor</u>	<u>Grantee</u>	<u>Vol/Pg</u>	<u>Inst.</u>	<u>WD/C</u>	<u>Date</u>	<u>Cons.</u>	<u>Rec. Date</u>	<u>Description</u>
Edwin Ellis Martha B. Ellis	Alexander Ellis	1/156	-	QC	8/2/1861	3000	-	All lots and blocks in Bay City
Edwin Ellis Martha B. Ellis	Phillips & Colby Construction	5/402		WD	7/18/1873	1.00	7/29/1874	Lots 1 & 2 in Block 27
Phillips & Colby Construction Co.	Wis. Central Railroad Co.	7/63	3249	deed	1/1/1877	1.00	12/19/1877	Lots 1 & 2 in Block 27
Wis. Central Railroad Co.	John A. Stewart Edwin H. Abbot	7/313	3435	QC	1/4/1879	1.00	4/14/1879	Lots 1 & 2 in Block 27
Wis. Central Railroad Co. (Trustees are Stewart/Abbot)	Lucy Barber Francis X. Poor Tirzah Poor Lisa Prentice	12/98	10532	QC	10/9/1882	1.00	1/23/1883	Lots 1 & 2 in Block 27
George B. Best Emma Best	Thomas Bardon	12/134	10562	QC	2/5/1883	1000	2/9/1883	Lots 1 & 2 in Block 27
Lisa Prentice Francis X. Poor Tirzah Poor Lucy A. Barber	Charles H. Kingman	15/168	11460	deed	12/31/1883	5000	12/31/1883	Blocks 25, 26, 27
Frank Wood Maria Wood	Charles H. Kingman	15/302	X12127	C	7/28/1884	1.00	8/26/1884	Blocks 25, 26, 27

000751

<u>Grantor</u>	<u>Grantee</u>	<u>Vol/Pg</u>	<u>Inst.</u>	<u>WD/QC</u>	<u>Date</u>	<u>Cons.</u>	<u>Rec. Date</u>	<u>Description</u>
Charles H. Kingman	Frank Wood	16/59	11504	QC	1/8/1884	3000	6/14/1884	Blocks 25, 26, 27
Charles Kingman	Charles C. Collins	17/35	12669	QC	12/1/1884	2000	2/7/1885	Blocks 25, 26, 27
Charles Collins	W. R. Sutherland	34/173	8049a	WD	2/3/1888	25500	2/9/1888	Blocks 25, 26 and lots 1 & 2 in Block 27
W. R. Sutherland Jane Sutherland	Alexander P. Wood	41/70	11911a	WD	5/31/1889	10000	7/5/1889	Undivided 1/4 of Blocks 25, 26 and lots 1 & 2 in Block 27, excepting for the railroad right of way
Alexander P. Wood Margaret Wood	W. R. Sutherland	51/80	X148	WD	8/16/1892	10000	8/17/1892	Undivided 1/4 of Blocks 25, 26, and lots 1 & 2 in Block 27 excepting for the railroad right of way
W. R. Sutherland Jane Sutherland	Sutherland Lumber Company	39/558	X3890	QC	1/28/1895	30000	1/28/1895	Undivided 1/2 of Blocks 25, 26 and lots 1 & 2 in Block 27
Wm. Tomkins Elizabeth Tomkins	Ashland Realty Co.	39/628	X5188	QC	9/13/1894	15000	12/26/1895	Undivided 1/2 of blocks 25, 26 and lots 1 & 2 in Block 27

000752

<u>Grantor</u>	<u>Grantee</u>	<u>Vol/Pg</u>	<u>Inst.</u>	<u>WD/QC</u>	<u>Date</u>	<u>Cons.</u>	<u>Rec. Date</u>	<u>Description</u>
Ashland Realty Co.	R. C. Pope W. G. Davis	67/18	6428	WD	10/27/1896	10000	11/12/1876	All that part of Blocks 26 & 27 lying north of the Wis. Central R.R. right of way and west of the boundary line between lots 17 & 18 in Block 33 ex- tended in a direct line to the govern- ment dock line in front of said prop- erty.
R. C. Pope Katie Pope W. G. Davis Jemima Davis	Pope Lumber Company	63/165	X8021	WD	11/9/1897	5000	11/20/1897	All that part of Blocks 26 & 27 lying north of the Wis. Central R. R. right of way and west of the boundary line between lots 17 & 18 in Block 33 ex- tended in a direct line to the govern- ment dock line in front of said prop- erty.
Ashland Realty Co.	R. C. Pope W. G. Davis	63/220	X9064	WD	10/27/1896	10000	9/28/1898	All that part of Blocks 26 & 27 lying north of the Wis. Central R. R. right of way and west of the boundary line between lots 17 & 18 in Block 33 ex- tended in a direct line to the govern- ment dock line in front of property
(Correction Deed for 67/18)								

000753

<u>Grantor</u>	<u>Grantee</u>	<u>Vol/Pg</u>	<u>Inst.</u>	<u>WD/QC</u>	<u>Date</u>	<u>Cons.</u>	<u>Rec. Date</u>	<u>Description</u>
Wilbur G. Davis Trustee of Pope Lumber Co	John Schroeder Lumber Company	73/23	X13566	Trustee	10/1901	30000	2/28/1901	Conveys all that part of Blocks 25, 26, 27 lying north of the railroad right of way
Ashland County	Ashland County	151/175	X102123	Tax	3/29/1939	1123.41	3/31/1939	Undivided 1/2 of Blocks 25, 26, lots 1-6 in Blk. 27 Sale date 6/14/1932 (total sale price was \$2246.79 re- deemed by John Schroeder Lumber)
Ashland County	Ashland County	151/182	X102168	Cor- rection deed for 151/175.	4/12/1939	1123.41	4/12/1939	Blocks 25, 26 and lots 1-6 in Blk 27 Sale date 6/14/1932
Ashland County	Ashland County	151/194	X102642	Tax	7/11/1939	2954	7/11/1939	Blocks 25, 26, 27 Sale date 8/1/1933
John Schroeder Lumber Company	County of Ash- land	156/317	X 103493	QC	12/6/1939		12/21/1939	All of Blocks 26, 26 and lots 1-6 in Block 27
Ashland County	City of Ash- land	168/52	X107607	QC	3/12/1942	1.00	3/13/1942	Blocks 25, 26, 27, 28 less the rail- road right of way

000754

<u>Grantor</u>	<u>Grantee</u>	<u>Vol/Pg</u>	<u>Inst.</u>	<u>WD/QC</u>	<u>Date</u>	<u>Cons.</u>	<u>Rec. Date</u>	<u>Description</u>
(Additional lot 3)								
Ashland County	Ashland County	8/78	3480	Tax	4/9/1879	23.23	4/9/1879	Lots 3 & 4 in Blk. 27 each lot was priced at .54 Sale date 5/11/1875
Ashland County	Edwin Abbot	10/293	8038	QC	5/28/1881	1.00	1/9/1882	Lots 1-6 in Block 27
Edwin Abbot Martha Abbot	Henry S. Wilson	21/439	2138a	QC	8/28/1886	8500	9/6/1886	Lots 3 & 4 in Block 27
Henry S. Wilson	John Niland	24/408	3864a	QC	2/18/1887	13000	3/23/1887	Lots 3 & 4 in Block 27
John Niland	Ashland Real Estate & Development Company	24/414	3863a	WD	3/9/1887	1.00	3/23/1887	Lots 3 & 4 in Block 27
Ashland Real Estate & Improvement Co.	Fond du Lac Real Estate & Investment	86/323	X35437	WD	1/18/1910	1.00	1/20/1910	Lots 3 & 4 in Block 27
Ashland Real Estate & Improvement Co.	Fond du Lac Real Estate Investment Co.	86/482	X40370	WD	1/18/1910	1.00	3/9/1912	Lots 3 & 4 in Block 27

00055

<u>Grantor</u>	<u>Grantee</u>	<u>Vol/Pg</u>	<u>Inst.</u>	<u>WD/QC</u>	<u>Date</u>	<u>Cons.</u>	<u>Rec. Date</u>	<u>Description</u>
Fond du Lac Real Estate & Investment Co.	Wm. McDermott	122/91	X61338	WD	11/20/1919	1.00	1/12/1920	Lots 3 & 4 Block 27
Ashland County	John Schroeder Lumber Co.	91/591	X74877	Tax	12/18/1924	207.13	12/19/1924	Lots 3, 4, 5, 6 in Block 27 (each lot sold for \$19.35) Sale date 6/14/1921
Ashland County	John Schroeder Lumber Company	91/616	X75925	Tax	6/16/1925	254.32	6/17/1925	Lots 3, 4, 5, 6 in Block 27 (each lot sold for \$19.35) Sale date 6/13/1922
Ashland County	John Schroeder Lumber Co.	135/76	X80038	Tax	6/15/1927	141.14	6/17/1927	Lots 3, 4, 5, 6, in Block 27 (each lot sold for \$18.25) Sale date 6/10/1923
Ashland County	John Schroeder Lumber Company	135/77	X80039	Tax	6/15/1927	138.76	6/17/1927	Lots 3, 4, 5, 6 in Block 27 (each lot sold for \$18.27) Sale date 6/10/1924
Ashland County	John Schroeder Lumber Company	135/110	X81706	Tax	6/12/1928	136.78	6/12/1928	Lots 3 & 4 (\$38.23 combined price) Lots 5 & 6 (\$38.23 combined price) Sale date 6/9/1925

000756

<u>Grantor</u>	<u>Grantee</u>	<u>Vol/Pg</u>	<u>Inst.</u>	<u>WD/QC</u>	<u>Date</u>	<u>Cons.</u>	<u>Rec. Date</u>	<u>Description</u>
(Additional lots 5 & 6)								
Edwin Ellis Martha B. Ellis	Charles L. Willis	2/196	-	QC	12/13/1857	6000	2/13/1858	Lots 5 & 6 in Block 27
Edwin Ellis Martha B. Ellis	Charles L. Willis	32/547	10709a	QC	12/15/1857	6000	1/29/1889	Lots 5 & 6 in Block 27
Ashland County	John Schroeder Lumber Company	91/553	X71689	Tax	6/14/1923	106.36	6/14/1923	Lots 5 & 6 in Block 27 (each lot sold for \$19/35) Sale date 6/8/1920

000157

ELLIS DIVISION
Block 28 -
Lots 1 - 6 inclusive

<u>Grantor</u>	<u>Grantee</u>	<u>Vol/Pg</u>	<u>Inst.</u>	<u>WD/QC</u>	<u>Date</u>	<u>Cons.</u>	<u>Rec. Date</u>	<u>Description</u>
Edwin Ellis Martha B. Ellis	Alexander Ellis	1/156	-	QC	8/2/1861	3000	-	All lots and Blocks in Bay City
Edwin Ellis Martha B. Ellis	Phillips & Colby Const.	5/402	-	WD	7/18/1873	1.00	7/29/1874	Lots 1-6 Block 28
Phillips & Colby Constroction Co.	Wis. Central Railroad Co.	7/63	3249	deed	1/1/1887	1.00	12/19/1887	Lots 1-6 Block 28
Wis. Central Railroad Co.	John A. Stewart Edwin Abbot	7/313	3435	QC	1/4/1889	1.00	4/14/1879	All of Block 28 (Lots 1-6)
John A. Stewart Edwin Abbot	Wis. Central Railroad Co.	67/439	X12369	WD	6/1/1900	1.00	7/11/1900	Lots 1-6 Block 28
Ashland County	Ashland County	151/175	X102123	Tax	3/29/1939	1123.41	3/31/1939	Undivided 1/2 of Blocks 25,26, lots 1-6 in blk. 27 Sale date 6/14/1939 (total sale price was \$2246.79 re- deemed by the John Schroeder Lumber)
Ashland County	Ashland County	151/182	X102168	Cor- rection Deed for 151/175	4/12/1939	1123.41	4/12/1939	Blocks 25,26 and lots 1-6 in Blk. 27 Sale date 6/14/1939

000758

<u>Grantor</u>	<u>Grantee</u>	<u>Vol/Pg</u>	<u>Inst.</u>	<u>WD/OC</u>	<u>Date</u>	<u>Cons.</u>	<u>Rec. Date</u>	<u>Description</u>
Ashland County	Ashland County	151/194	X102642	Tax	7/11/1939	2,954	7/11/1939	Fifield Place and frontage in Block 28 Sale date 8/1/1933
John Schroeder Lumber Company	Ashland County	156/317	X103493	OC	12/6/1939		12/21/1939	Blocks 25, 26, 27, 28
Ashland County	Wis. Central	156/429	X106847	OC	8/12/1941	1.00	9/26/1941	All that part of lot 1 in Blk. 28 which lies southerly of the following described line: Beginning at the point of intersection of the northeasterly line of 7th Ave. E., with a line running parallel with and 50' distant northwesterly (measured at right angles) from the center line of Bay City Spur; thence southwesterly along the last mentioned parallel line and a line running parallel with and 50' distant northwesterly (measured at right angles) from the center line of the Wis. Cen. RR Spur Tract #200 to a point where a curve to the right with a radius of 573.686' will begin in order to be

000759

<u>Grantor</u>	<u>Grantee</u>	<u>Vol/Pg</u>	<u>Inst.</u>	<u>WD/OC</u>	<u>Date</u>	<u>Cons.</u>	<u>Rec. Date</u>	<u>Description</u>
Ashland County	Wis. Central Railroad Co.	156/429	continued.....					tangent to a north-westerly extension of the southwesterly line of block 29, thence southwesterly and northwesterly along said above mentioned curved line (hereinafter called "Northwesterly boundary line") to the point of intersection with the southwesterly line of Block 28.
Ashland County	City of Ashland	168/52	X107607	OC	3/12/1942	1.00	3/13/1942	Block 28, less the railroad right of way
Soo Line Railroad Co.	Northland College	364/447	X204751	WD	12/15/1981		4/21/1982	see attached

000760

000761

Vol 364 Records 447

THIS INDENTURE, Made by SOO LINE RAILROAD COMPANY, successor by merger to Wisconsin Central Railroad Company and Minneapolis, St. Paul & Sault Ste. Marie Railroad Company, a Corporation duly organized and existing under and by virtue of the laws of the State of Minnesota, Grantor, of Minneapolis, Hennepin County, Minnesota, 55402, hereby quit claims, transfers, grants and conveys unto NORTHLAND COLLEGE, a Wisconsin non-profit corporation, Grantee, of Ashland County, Wisconsin, as a gift, the following tract of land in Ashland County, State of Wisconsin:

A parcel of land comprising Blocks 401, 402, 403, 404, 405, 406, 30, 68, and 69, all in Vaughn's Division, Blocks 28, 29, 30, 31 (otherwise known as Fifield Place), 32, and 33, all in Ellis' Division, and all intervening streets and alleys, vacated or to be vacated, all in the City of Ashland, Ashland County, Wisconsin, according to the plats thereof on file and of record in the Office of the Register of Deeds in and for said County; also the so-called Commercial Dock, all lying and being within the following description: commencing at the point of intersection of the northeasterly line of Seventh Avenue East in the City of Ashland with a line running parallel with and fifty (50) feet distant northwesterly (measured at right angles) from the center line of the Soo Line Railroad Company's so-called Bay City Spur as now located, maintained and operated over and across Blocks 37, 36, 21, and 22, all in said Ellis' Division; thence westerly along a line running parallel with and fifty (50) feet distant northwesterly (measured at right angles) from the center line of said Bay City Spur and the center line of the so-called Commercial Dock Track (now known as the main line track) of the Soo Line Railroad Company's Railroad as the same is now located, maintained, and operated over and across said lands to a point in the Northerly line of Block 33, Ellis' Division where a curve to the right, with a radius of five hundred seventy-three and six hundred eighty-six thousandths (573.686) feet, will start in order to be tangent to a line drawn parallel with and 125 feet distant southwesterly (measured at right angles) from the southwesterly line of Second Avenue East in the City of Ashland, being the actual point of beginning of the land herein described; thence southwesterly, westerly, and northwesterly on said above mentioned curved line to a point 125 feet distant southwesterly from said southwesterly line of Second Avenue East extended northwesterly; thence northwesterly on a line drawn parallel with and 125 feet distant southwesterly (measured at right angles) from said southwesterly line of Second Avenue East extended northwesterly to the established Government Dock Line (Harbor Line) in said Chequamegon Bay; thence westerly along said Government Dock Line to a point of intersection with the northerly extension of the westerly line of Block 69 in said Vaughn's Division; thence southerly along said westerly line of Block 69 extended northerly to a point of intersection with a line running parallel with and fifty (50) feet distant northwesterly (measured at right angles) from the center line of the main track of the Soo Line Railroad Company's railroad as the same is now located, maintained, and operated over and across said lands; thence northeasterly along the last mentioned parallel line to a point of intersection with the westerly line of said Block 33, Ellis' Division; thence easterly in a straight line

X204751

REGISTER OF DEEDS OFFICE
ASHLAND COUNTY, WIS.
Received for Record
Vol. 364 of Records on Page 447
APR 2 1982
Hendrick R. Kische

Subject to any and all existing utilities and easements, leases, licenses and permits heretofore granted by the Grantor, or its predecessors in interest, affecting the herein described premises.

IN WITNESS WHEREOF, the said grantor has caused these presents to be signed by Thomas M. Beckley, its President, and countersigned by Arlene R. Holmes, its Secretary, at Minneapolis, Minnesota, and its corporate seal to be hereunto affixed, this _____ day of _____, 1981.


John P. Roddy

BY Thomas M. Backley
Vice President
Thomas M. Backley

By Arlene R. Holmes
Its Secretary
Arlene R. Holmes

Personally came before me this 15th day of December, A.D. 1981, Thomas M. Beckley, President, and Arlene R. Holmes, Secretary of the above named Corporation to me known to be the persons who executed the foregoing instrument, and to me known to be such President and Secretary of said Corporation, and acknowledged that they executed the foregoing instrument as such officers as the deed of said Corporation, by its authority.

Quenda G. Sullivan

 LINDA C. SULLIVAN
NOTARY PUBLIC-MINNESOTA
WETHELMAN COUNTY
My Commission Expires Nov. 29, 1988

ELLIS DIVISION
Block 29
lots 1 - 6 inclusive

<u>Grantor</u>	<u>Grantee</u>	<u>Vol/Pg</u>	<u>Inst.</u>	<u>WD/QC</u>	<u>Date</u>	<u>Cons.</u>	<u>Rec. Date</u>	<u>Description</u>
Edwin Ellis Martha B. Ellis	Alexander Ellis	1/156	-	QC	8/2/1861	3000	-	All lots and block in Bay City
Edwin Ellis Martha B. Ellis	Johnathan S. Ellis	49/473	X6104	QC	1/28/1896	1.00	8/13/1896	Lots 1,2,3 in Blk. 29
Phillips & Colby Construction Co.	Wisconsin Central Rail- road Company	7/63	3249	deed	1/1/1877	1.00	12/19/1877	Lots 4,5,6 in Blk. 29
Wis. Central Railroad Co.	John A. Stewart Edwin Abbot	7/313	3435	QC	1/4/1879	1.00	4/14/1879	Lots 4,5,6 in Blk. 29
John A. Stewart Edwin Abbot	Wis. Central Railroad Co.	67/439	X12369	WD	6/1/1900	1.00	7/11/1900	Lots 4,5,6 in Blk. 29
Soo Line Rail- road Company	Northland College	364/447	X204751	QC	12/15/1981		4/2/1982	see attached
Northland College	City of Ashland	396/148	X215149	WD	1/23/1986		1/30/1986	see attached

000763

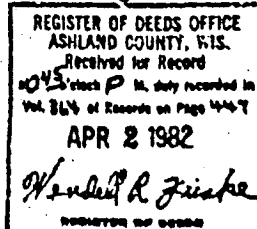
192000

Vol 364 Records 447

THIS INDENTURE, Made by SOO LINE RAILROAD COMPANY, successor by merger to Wisconsin Central Railroad Company and Minneapolis, St. Paul & Sault Ste. Marie Railroad Company, a Corporation duly organized and existing under and by virtue of the laws of the State of Minnesota, Grantor, of Minneapolis, Hennepin County, Minnesota, 55402, hereby quit claims, transfers, grants and conveys unto NORTHLAND COLLEGE, a Wisconsin non-profit corporation, Grantee, of Ashland County, Wisconsin, as a gift, the following tract of land in Ashland County, State of Wisconsin:

A parcel of land comprising Blocks 401, 402, 403, 404, 405, 406, 30, 68, and 69, all in Vaughn's Division, Blocks 28, 29, 30, 31 (otherwise known as Fifield Place), 32, and 33, all in Ellis' Division, and all intervening streets and alleys, vacated or to be vacated, all in the City of Ashland, Ashland County, Wisconsin, according to the plats thereof on file and of record in the Office of the Register of Deeds in and for said County; also the so-called Commercial Dock, all lying and being within the following description: commencing at the point of intersection of the northeasterly line of Seventh Avenue East in the City of Ashland with a line running parallel with and fifty (50) feet distant northwesterly (measured at right angles) from the center line of the Soo Line Railroad Company's so-called Bay City Spur as now located, maintained and operated over and across Blocks 37, 36, 21, and 22, all in said Ellis' Division; thence westerly along a line running parallel with and fifty (50) feet distant northwesterly (measured at right angles) from the center line of said Bay City Spur and the center line of the so-called Commercial Dock Track (now known as the main line track) of the Soo Line Railroad Company's Railroad as the same is now located, maintained, and operated over and across said lands to a point in the Northerly line of Block 33, Ellis' Division where a curve to the right, with a radius of five hundred seventy-three and six hundred eighty-six thousandths (573.686) feet, will start in order to be tangent to a line drawn parallel with and 125 feet distant southwesterly (measured at right angles) from the southwesterly line of Second Avenue East in the City of Ashland, being the actual point of beginning of the land herein described; thence southwesterly, westerly, and northwesterly on said above mentioned curved line to a point 125 feet distant southwesterly from said southwesterly line of Second Avenue East extended northwesterly; thence northwesterly on a line drawn parallel with and 125 feet distant southwesterly (measured at right angles) from said southwesterly line of Second Avenue East extended northwesterly to the established Government Dock Line (Harbor Line) in said Chequamegon Bay; thence westerly along said Government Dock Line to a point of intersection with the northerly extension of the westerly line of Block 69 in said Vaughn's Division; thence southerly along said westerly line of Block 69 extended northerly to a point of intersection with a line running parallel with and fifty (50) feet distant northwesterly (measured at right angles) from the center line of the main track of the Soo Line Railroad Company's railroad as the same is now located, maintained, and operated over and across said lands; thence northeasterly along the last mentioned parallel line to a point of intersection with the westerly line of said Block 33, Ellis' Division; thence easterly in a straight line

X204751



000765

to the point of beginning; it being the intent of the Soo Line Railroad Company to convey all the up-land, filled land, including the so-called Commercial Dock, and riparian rights that it owns lying within the above description. EXCEPTING therefrom all that part lying northeasterly of the northwesterly extension of the southwesterly line of said Second Avenue East.

Subject to any and all existing utilities and easements, leases, licenses and permits heretofore granted by the Grantor, or its predecessors in interest, affecting the herein described premises.

Reserving in the Grantor, its successors and assigns, all oil, gas and other minerals, in or under or produced from said land, together with full right through its servants, employees, agents, licensees or appointees, to enter and re-enter into and upon and pass over and across said lands for the purpose of exploring for, mining and removing such oil, gas and other minerals, or any of them, at all times in such a manner as to not unnecessarily damage the surface of said premises thereby.

IN WITNESS WHEREOF, the said grantor has caused these presents to be signed by Thomas M. Beckley, its President, and countersigned by Arlene R. Holmes, its Secretary, at Minneapolis, Minnesota, and its corporate seal to be hereunto affixed, this day of , 1981.

Signed and Sealed
in Presence of:

John P. Roddy

SOO LINE RAILROAD COMPANY

By Thomas M. Beckley
its President
Thomas M. Beckley

Countersigned:

Beth A. Johnson

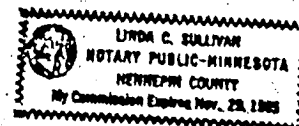
By Arlene R. Holmes
its Secretary
Arlene R. Holmes

STATE OF MINNESOTA)
)SS
COUNTY OF HENNEPIN)

Personally came before me this 15th day of December
A.D. 1981, Thomas M. Beckley, President, and Arlene R. Holmes, Secretary
of the above named Corporation to me known to be the persons who executed
the foregoing instrument, and to me known to be such President and
Secretary of said Corporation, and acknowledged that they executed the
foregoing instrument as such officers as the deed of said Corporation, by
its authority.

Jinda C. Sullivan

This instrument was drafted by
Soo Line Railroad Company
1601 Soo Line Building
Minneapolis, Minnesota 55402



000766

THIS INDENTURE, Made by Northland College

a Corporation duly organized and existing under and by virtue of the laws of the State of Wisconsin, grantor, of Ashland County, Wisconsin, hereby conveys and warrants to City of Ashland, a municipal corporation

of Ashland County, Wisconsin, for the purpose of valuable consideration

the following tract of land in Ashland County, State of Wisconsin:

A parcel of land comprising Blocks Four Hundred and One (401), Four Hundred and Two (402), Four Hundred and Three (403), Four Hundred and Four (404), Four Hundred and Five (405), Fractional Block Four Hundred and Six (406), part of the Northerly One-Half (N 1/2) of Block Sixty-eight (68) and Sixty-nine (69), all in Vaughn's Division; all of Blocks Twenty-nine (29) and Thirty (30), Lots Thirteen (13) through Twenty-four (24), inclusive, Block Thirty-one (31), all in Ellis Division; and Lots Eight (8) and Nine (9) of Fifield Place; and all intervening streets, avenues and alleys, vacated or to be vacated, all in the City of Ashland, Ashland County, Wisconsin; also the so-called Commercial Dock, all lying and being within the following metes and bounds description:

Commencing at the point of intersection of the Northeasterly line of Seventh Avenue East in the City of Ashland with a line running parallel with and fifty (50) feet distant Northwesterly (measured at right angles) from the center line of the Soo Line Railroad Company's so-called Bay City Spur as now located, maintained and operated over and across Blocks Thirty-seven (37), Thirty-six (36), Twenty-one (21) and Twenty-two (22), all in said Ellis Division;

Thence Westerly along a line running parallel with and fifty (50) feet distant Northwesterly (measured at right angles) from the center line of said Bay City Spur and the center line of the so-called Commercial Dock Track (now known as the main line track) of the Soo Line Railroad Company's Railroad as the same is now located, maintained and operated over and across said lands to a point in the Northerly line of Block Thirty-three (33), Ellis Division, where a curve to the right, with a radius of Five Hundred Seventy-three and Six Hundred and Eighty-six Thousandths (573.686) feet, will start in order to be tangent to a line drawn parallel with and One Hundred and Twenty-five (125) feet distant Southwesterly (measured at right angles) from the Southwesterly line of Second Avenue East in the City of Ashland, being the actual point of beginning of the land herein described;

Thence Southwesterly, Westerly and Northwesterly on said above mentioned curved line to a point One Hundred and Twenty-five (125) feet distant Southwesterly from said Southwesterly line of Second Avenue East extended Northwesterly; (description continued on reverse side)

(IF NECESSARY, CONTINUE DESCRIPTION ON REVERSE SIDE)

In Witness Whereof, the said grantor has caused these presents to be signed by Malcolm McLean, its President, and countersigned by Joseph M. Jauquet, its Secretary, at Ashland, Wisconsin, and its corporate seal to be hereunto affixed this 23rd day of January, A. D., 1986.

SIGNED AND SEALED IN PRESENCE OF

Carolyn Tarasewicz
Carolyn Tarasewicz
Harvey Haukaas
Harvey Haukaas

NORTHLAND COLLEGE

Malcolm McLean Corporate Name
Malcolm McLean President
COUNTERSIGNED:
Joseph M. Jauquet Secretary

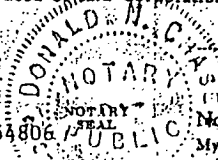
STATE OF WISCONSIN

Ashland County, ss.

Personally came before me, this 23 day of January, A. D., 1986, Malcolm McLean, President, and Joseph M. Jauquet, Secretary of the above named Corporation, to me known to be the persons who executed the foregoing instrument, and to me known to be such President and Secretary of said Corporation, and acknowledged that they executed the foregoing instrument as such officers as the deed of said Corporation, by its authority.

THIS INSTRUMENT WAS DRAFTED BY

Scott W. Clark
Ashland, Wisconsin



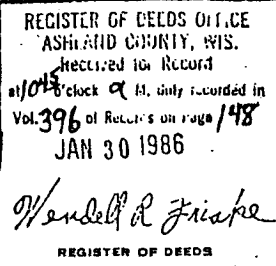
Notary Public, Ashland County, Wis.
My commission (expires) (is) 3/16/1986

(Section 59.31 (1) of the Wisconsin Statutes provides that all instruments to be recorded shall have plainly printed or typewritten thereon the names of the grantors, grantees, witnesses, and notary. Section 59.313 similarly requires that the name of the person who, or governmental agency which, drafted such instrument, shall be printed, typewritten, stamped or written thereon in a legible manner.)

WARRANTY DEED - By Corporation

STATE OF WISCONSIN
FORM No. 10

Wisconsin Legal Blank Co. Inc.
Milwaukee, Wis.



RETURN TO
TAX EMEMPT #2

VOL 396 PG. 148

000767

Thence Northwesterly on a line drawn parallel with and One Hundred and Twenty-five (125) feet distant Southwesterly (measured at right angles) from said Southwesterly line of Second Avenue East extended Northwesterly to the established Government Dock Line (Harbor Line) in said Chequamegon Bay;

Thence Westerly along said Government Dock Line to a point of intersection with the Northerly extension of the Westerly line of Block Sixty-nine (69) in said Vaughn's Division;

Thence Southerly along said Westerly line of Block Sixty-nine (69) extended Northerly to a point of intersection with a line running parallel with and fifty (50) feet distant Northwesterly (measured at right angles) from the center line of the main track of the Soo Line Railroad Company's railroad as the same is now located, maintained and operated over and across said lands;

Thence Northeasterly along the last mentioned parallel line to a point of intersection with the Westerly line of said Block Thirty-Three (33), Ellis Division;

Thence Easterly in a straight line to the point of beginning.

EXCEPTING therefrom all that part lying Northeasterly of the Northwesterly extension of the Southwesterly line of said Second Avenue East;

AND EXCEPTING that portion of Vacated St. Claire Street lying between the Westerly line of Ellis Avenue and the extended Westerly line of Lot Seventeen (17), Block Sixty-seven (67), Ellis Division, and Fractional Lots One (1) through Five (5), inclusive, of that Block lying North of Lots Thirteen (13) through Seventeen (17), inclusive, Block Sixty-seven (67), Ellis Division, sometimes described as Block Four Hundred and Six (406) and as Block Four Hundred and Sixteen (416) of Ellis Division;

AND EXCEPTING part of Lot Nine (9) lying Southerly of a line fifty (50) feet Southerly of said Commercial Dock Track, Fifield Place.

Block 30
Lots 1 - 6 inclusive

<u>Grantor</u>	<u>Grantee</u>	<u>Vol/Pg</u>	<u>Inst.</u>	<u>WD/LC</u>	<u>Date</u>	<u>Cons.</u>	<u>Rec. Date</u>	<u>Description</u>
Edwin Ellis Martha B. Ellis	Alexander Ellis	1/156	-	QC	8/2/1861	3000	-	All blocks and lots in Bay City
Martin Beaser for Asaph Hittlesey)	E. W. Hulbert F. Adams	1/196	-	QC	2/18/1856		10/22/1862	Lot 2 in Block 30 (Lot 1 was in the tract but not shown in the text of the instrument)
Edwin Ellis Martha B. Ellis	Charles Willis	32/547	10709a	QC	12/10/1857	6000	1/29/1889	Lots 1 & 2 Block 30
Additional Lots 3-6)								
Edwin Ellis Martha B. Ellis	D. W. C. Dunwell	5/250	-	QC	9/20/1873	1.00	4/9/1874	Lots 3 & 4 Block 30
D. W. C. Dunwell Mary Dunwell	Thomas Bardon	5/251	-	QC	2/20/1874	150	2/20/1874	Lots 3 & 4 Block 30
Martha B. Ellis Edwin Ellis	Phillips & Colby Construc- tion	5/402	-	WD	7/18/1873	1.00	7/29/1874	Lots 5 & 6 Block 30
Phillips & Colby Construction Co.	Wis. Central Railroad Co.	7/63	3249	deed	1/1/1877	1.00	12/19/1877	Lots 5 & 6 Block 30
Wis. Central Railroad	John Stewart Edwin Abbot	7/313	3435	QC	1/4/1879	1.00	4/14/1879	Lots 5 & 6 Block 30

29768

<u>Grantor</u>	<u>Grantee</u>	<u>Vol/Pg</u>	<u>Inst.</u>	<u>WD/QC</u>	<u>Date</u>	<u>Cons.</u>	<u>Rec. Date</u>	<u>Description</u>
John Stewart Edwin Abbot	Wis. Central Railroad Company	67/439	X12369	WD	6/1/1900	1.00	7/11/1900	Lots 5 & 6 in Block 30
Soo Line Rail- road Company	Northland College	364/447	X204751	QC	12/15/1891		4/2/1982	see attached
Northland College	City of Ashland	396/148	X215149	WD	1/23/1986		1/30/1986	see attached

0007169

000770

Vol 364 Records 447

THIS INDENTURE, Made by SOO LINE RAILROAD COMPANY, successor by merger to Wisconsin Central Railroad Company and Minneapolis, St. Paul & Sault Ste. Marie Railroad Company, a Corporation duly organized and existing under and by virtue of the laws of the State of Minnesota, Grantor, of Minneapolis, Hennepin County, Minnesota, 55402, hereby quit claims, transfers, grants and conveys unto NORTHLAND COLLEGE, a Wisconsin non-profit corporation, Grantee, of Ashland County, Wisconsin, as a gift, the following tract of land in Ashland County, State of Wisconsin:

A parcel of land comprising Blocks 401, 402, 403, 404, 405, 406, 30, 68, and 69, all in Vaughn's Division, Blocks 28, 29, 30, 31 (otherwise known as Fifield Place), 32, and 33, all in Ellis' Division, and all intervening streets and alleys, vacated or to be vacated, all in the City of Ashland, Ashland County, Wisconsin, according to the plats thereof on file and of record in the Office of the Register of Deeds in and for said County; also the so-called Commercial Dock, all lying and being within the following description: commencing at the point of intersection of the northeasterly line of Seventh Avenue East in the City of Ashland with a line running parallel with and fifty (50) feet distant northwesterly (measured at right angles) from the center line of the Soo Line Railroad Company's so-called Bay City Spur as now located, maintained and operated over and across Blocks 37, 36, 21, and 22, all in said Ellis' Division; thence westerly along a line running parallel with and fifty (50) feet distant northwesterly (measured at right angles) from the center line of said Bay City Spur and the center line of the so-called Commercial Dock Track (now known as the main line track) of the Soo Line Railroad Company's Railroad as the same is now located, maintained, and operated over and across said lands to a point in the Northerly line of Block 33, Ellis' Division where a curve to the right, with a radius of five hundred seventy-three and six hundred eighty-six thousandths (573.686) feet, will start in order to be tangent to a line drawn parallel with and 125 feet distant southwesterly (measured at right angles) from the southwesterly line of Second Avenue East in the City of Ashland, being the actual point of beginning of the land herein described; thence southwesterly, westerly, and northwesterly on said above mentioned curved line to a point 125 feet distant southwesterly from said southwesterly line of Second Avenue East extended northwesterly; thence northwesterly on a line drawn parallel with and 125 feet distant southwesterly (measured at right angles) from said southwesterly line of Second Avenue East extended northwesterly to the established Government Dock Line (Harbor Line) in said Chequamegon Bay; thence westerly along said Government Dock Line to a point of intersection with the northerly extension of the westerly line of Block 69 in said Vaughn's Division; thence southerly along said westerly line of Block 69 extended northerly to a point of intersection with a line running parallel with and fifty (50) feet distant northwesterly (measured at right angles) from the center line of the main track of the Soo Line Railroad Company's railroad as the same is now located, maintained, and operated over and across said lands; thence northeasterly along the last mentioned parallel line to a point of intersection with the westerly line of said Block 33, Ellis' Division; thence easterly in a straight line

X204751

APR 2 1982

Hendrick R. Fiske

Subject to any and all existing utilities and easements, leases, licenses and permits heretofore granted by the Grantor, or its predecessors in interest, affecting the herein described premises.

IN WITNESS WHEREOF, the said grantor has caused these presents to be signed by Thomas M. Beckley, its President, and countersigned by Arlene R. Holmes, its Secretary, at Minneapolis, Minnesota, and its corporate seal to be hereunto affixed, this _____ day of _____, 1981.


John P. Roddy

By Thomas M. Beckley
Vice President
Thomas M. Beckley

By Arlene R. Holmes
Its Secretary
Arlene R. Holmes

Personally came before me this 15th day of December A.D. 1981, Thomas M. Beckley, President, and Arlene R. Holmes, Secretary of the above named Corporation to me known to be the persons who executed the foregoing instrument, and to me known to be such President and Secretary of said Corporation, and acknowledged that they executed the foregoing instrument as such officers as the deed of said Corporation, by its authority.

Gilda C. Sullivan

 LINDA C. SULLIVAN
NOTARY PUBLIC-MINNESOTA
NEWNHEIM COUNTY
My Commission Expires Nov. 23, 2005

THIS INDENTURE, Made by Northland College

a Corporation duly organized and existing under and by virtue of the laws of the State of Wisconsin, grantor, of Ashland County, Wisconsin, hereby conveys and warrants to City of Ashland, a municipal corporation

grantee, of Ashland County, Wisconsin, for the sum of valuable consideration

the following tract of land in Ashland County, State of Wisconsin:

A parcel of land comprising Blocks Four Hundred and One (401), Four Hundred and Two (402), Four Hundred and Three (403), Four Hundred and Four (404), Four Hundred and Five (405), Fractional Block Four Hundred and Six (406), part of the Northerly One-Half (N 1/2) of Block Sixty-eight (68) and Sixty-nine (69), all in Vaughn's Division; all of Blocks Twenty-nine (29) and Thirty (30), Lots Thirteen (13) through Twenty-four (24), inclusive, Block Thirty-one (31), all in Ellis Division; and Lots Eight (8) and Nine (9) of Fifield Place; and all intervening streets, avenues and alleys, vacated or to be vacated, all in the City of Ashland, Ashland County, Wisconsin; also the so-called Commercial Dock, all lying and being within the following metes and bounds description:

Commencing at the point of intersection of the Northeasterly line of Seventh Avenue East in the City of Ashland with a line running parallel with and fifty (50) feet distant Northwesterly (measured at right angles) from the center line of the Soo Line Railroad Company's so-called Bay City Spur as now located, maintained and operated over and across Blocks Thirty-seven (37), Thirty-six (36), Twenty-one (21) and Twenty-two (22), all in said Ellis Division;

Thence Westerly along a line running parallel with and fifty (50) feet distant Northwesterly (measured at right angles) from the center line of said Bay City Spur and the center line of the so-called Commercial Dock Track (now known as the main line track) of the Soo Line Railroad Company's Railroad as the same is now located, maintained and operated over and across said lands to a point in the Northerly line of Block Thirty-three (33), Ellis Division, where a curve to the right, with a radius of Five Hundred Seventy-three and Six Hundred and Eighty-six Thousandths (573.686) feet, will start in order to be tangent to a line drawn parallel with and One Hundred and Twenty-five (125) feet distant Southwesterly (measured at right angles) from the Southwesterly line of Second Avenue East in the City of Ashland, being the actual point of beginning of the land herein described;

Thence Southwesterly, Westerly and Northwesterly on said above mentioned curved line to a point One Hundred and Twenty-five (125) feet distant Southwesterly from said Southwesterly line of Second Avenue East extended Northwesterly; (description continued on

(IF NECESSARY, CONTINUE DESCRIPTION ON REVERSE SIDE) reverse side)

In Witness Whereof, the said grantor has caused these presents to be signed by Malcolm McLean, its President, and countersigned by Joseph M. Jauquet

its Secretary, at Ashland Wisconsin, and its corporate seal to be hereunto affixed this 23rd day of January, A. D., 1986

SIGNED AND SEALED IN PRESENCE OF

Carolyn Tarasewicz
Carolyn Tarasewicz

Harvey Haukaas
Harvey Haukaas

NORTHLAND COLLEGE

Malcolm McLean Corporate Name
Malcolm McLean President

COUNTERSIGNED:
Joseph M. Jauquet Secretary

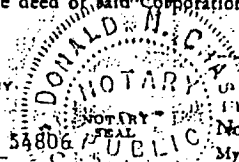
STATE OF WISCONSIN

Ashland County, ss.

Personally came before me, this 23 day of January, A. D., 1986, Malcolm McLean, President, and Joseph M. Jauquet, Secretary of the above named Corporation, to me known to be the persons who executed the foregoing instrument, and to me known to be such President and Secretary of said Corporation, and acknowledged that they executed the foregoing instrument as such officers as the deed of said Corporation, by its authority.

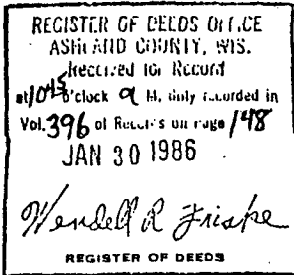
THIS INSTRUMENT WAS DRAFTED BY

Scott W. Clark
Ashland, Wisconsin



Notary Public, Ashland County, Wis.
My commission (expires) (is) 3/16/1986

VOL 396 PG 148



RETURN TO
TAX EMEMPT #2

000772

000773

Thence Northwesterly on a line drawn parallel with and One Hundred and Twenty-five (125) feet distant Southwesterly (measured at right angles) from said Southwesterly line of Second Avenue East extended Northwesterly to the established Government Dock Line (Harbor Line) in said Chequamegon Bay;

Thence Westerly along said Government Dock Line to a point of intersection with the Northerly extension of the Westerly line of Block Sixty-nine (69) in said Vaughn's Division;

Thence Southerly along said Westerly line of Block Sixty-nine (69) extended Northerly to a point of intersection with a line running parallel with and fifty (50) feet distant Northwesterly (measured at right angles) from the center line of the main track of the Soo Line Railroad Company's railroad as the same is now located, maintained and operated over and across said lands;

Thence Northeasterly along the last mentioned parallel line to a point of intersection with the Westerly line of said Block Thirty-Three (33), Ellis Division;

Thence Easterly in a straight line to the point of beginning.

EXCEPTING therefrom all that part lying Northeasterly of the Northwesterly extension of the Southwesterly line of said Second Avenue East;

AND EXCEPTING that portion of Vacated St. Claire Street lying between the Westerly line of Ellis Avenue and the extended Westerly line of Lot Seventeen (17), Block Sixty-seven (67), Ellis Division, and Fractional Lots One (1) through Five (5), inclusive, of that Block lying North of Lots Thirteen (13) through Seventeen (17), inclusive, Block Sixty-seven (67), Ellis Division, sometimes described as Block Four Hundred and Six (406) and as Block Four Hundred and Sixteen (416) of Ellis Division;

AND EXCEPTING part of Lot Nine (9) lying Southerly of a line fifty (50) feet Southerly of said Commercial Dock Track, Fifield Place.

ELLIS DIVISION
Block 31
Lots 13 - 24

<u>Grantor</u>	<u>Grantee</u>	<u>Vol/Pg</u>	<u>Inst.</u>	<u>WD/QC</u>	<u>Date</u>	<u>Cons.</u>	<u>Rec. Date</u>	<u>Description</u>
Edwin Ellis Martha B. Ellis	Alexander Ellis	1/156	-	QC	8/2/1861	3000	-	All lots and blocks in Bay City
Edwin Ellis Martha B. Ellis	Wisconsin Central Rail- road Company	5/400	-	Right of way	7/17/1873	1.00	7/29/1874	Right of way in lots 1 - 11 in Block 31
Edwin Ellis Martha B. Ellis	Phillips & Colby Construction Co.	5/402	-	WD	7/18/1873	1.00	7/29/1874	Lots 13,14,15,18, 19,20,21,22,23,24 in Block 31
Phillips & Colby Construction Co.	Wis. Central Railroad Co.	7/63	3249	deed	1/1/1877	1.00	12/19/1877	Lots 13,14,15,18, 19,20,21,22,23,24 in Block 31
Wis. Central Railroad Co.	John A. Stewart Edwin H. Abbot	7/313	3435	QC	1/4/1879	1.00	4/14/1879	Lots 13,14,15,18, 19, 20,21,22,23,24
John Stewart Edwin Abbot	Wis. Central Railroad Company	67/439	X12369	WD	6/26/1900	1.00	7/11/1900	Lots 13,14,15,18, 19,20,21,22,23,24 in Block 31
(Additional Lots 16 & 17)								
Edwin Ellis Martha B. Ellis	Rensalaen R. Nelson	2/197	-	QC	12/15/1857	1200	-	Lots 16 & 17 in Block 31
Rensalaen R. Nelson	Wis. Central Railroad Co.	5/81	-	QC	7/9/1873	1.00	-	Lots 16 & 17 in Block 31

000774

<u>Grantor</u>	<u>Grantee</u>	<u>Vol/Pg</u>	<u>Inst.</u>	<u>WD/QC</u>	<u>Date</u>	<u>Cons.</u>	<u>Rec. Date</u>	<u>Description</u>
Soo Line Rail- road Company	Northland College	364/447	X204751	QC	12/15/1981		4/2/1982	see attached
Northland College	City of Ashland	396/148	X215149	WD	1/23/1986		1/30/1986	see attached

MM775

000776

Vol 364 Records 447

THIS INDENTURE, Made by SOO LINE RAILROAD COMPANY, successor by merger to Wisconsin Central Railroad Company and Minneapolis, St. Paul & Sault Ste. Marie Railroad Company, a Corporation duly organized and existing under and by virtue of the laws of the State of Minnesota, Grantor, of Minneapolis, Hennepin County, Minnesota, 55402, hereby quit claims, transfers, grants and conveys unto NORTHLAND COLLEGE, a Wisconsin non-profit corporation, Grantee, of Ashland County, Wisconsin, as a gift, the following tract of land in Ashland County, State of Wisconsin:

A parcel of land comprising Blocks 401, 402, 403, 404, 405, 406, 30, 68, and 69, all in Vaughn's Division, Blocks 28, 29, 30, 31 (otherwise known as Fifield Place), 32, and 33, all in Ellis' Division, and all intervening streets and alleys, vacated or to be vacated, all in the City of Ashland, Ashland County, Wisconsin, according to the plats thereof on file and of record in the Office of the Register of Deeds in and for said County; also the so-called Commercial Dock, all lying and being within the following description: commencing at the point of intersection of the northeasterly line of Seventh Avenue East in the City of Ashland with a line running parallel with and fifty (50) feet distant northwesterly (measured at right angles) from the center line of the Soo Line Railroad Company's so-called Bay City Spur as now located, maintained and operated over and across Blocks 37, 36, 21, and 22, all in said Ellis' Division; thence westerly along a line running parallel with and fifty (50) feet distant northwesterly (measured at right angles) from the center line of said Bay City Spur and the center line of the so-called Commercial Dock Track (now known as the main line track) of the Soo Line Railroad Company's Railroad as the same is now located, maintained, and operated over and across said lands to a point in the Northerly line of Block 33, Ellis' Division where a curve to the right, with a radius of five hundred seventy-three and six hundred eighty-six thousandths (573.686) feet, will start in order to be tangent to a line drawn parallel with and 125 feet distant southwesterly (measured at right angles) from the southwesterly line of Second Avenue East in the City of Ashland, being the actual point of beginning of the land herein described; thence southwesterly, westerly, and northwesterly on said above mentioned curved line to a point 125 feet distant southwesterly from said southwesterly line of Second Avenue East extended northwesterly; thence northwesterly on a line drawn parallel with and 125 feet distant southwesterly (measured at right angles) from said southwesterly line of Second Avenue East extended northwesterly to the established Government Dock Line (Harbor Line) in said Chequamegon Bay; thence westerly along said Government Dock Line to a point of intersection with the northerly extension of the westerly line of Block 69 in said Vaughn's Division; thence southerly along said westerly line of Block 69 extended northerly to a point of intersection with a line running parallel with and fifty (50) feet distant northwesterly (measured at right angles) from the center line of the main track of the Soo Line Railroad Company's railroad as the same is now located, maintained, and operated over and across said lands; thence northeasterly along the last mentioned parallel line to a point of intersection with the westerly line of said Block 33, Ellis' Division; thence easterly in a straight line

X204751

REGISTER OF DEEDS OFFICE
ASHLAND COUNTY, WIS.
Received for Record
APR 2 1982
Wendell R. Fiske

Subject to any and all existing utilities and easements, leases, licenses and permits heretofore granted by the Grantor, or its predecessors in interest, affecting the herein described premises.

IN WITNESS WHEREOF, the said grantor has caused these presents to be signed by Thomas M. Beckley, its President, and countersigned by Arlene R. Holmes, its Secretary, at Minneapolis, Minnesota, and its corporate seal to be hereunto affixed, this _____ day of _____, 1981.

John P. Roddy


Beth A. Johnson

By Thomas M. Beckley
 Vice President
 Thomas M. Beckley

By Arlene R. Holmes
Its Secretary
Arlene R. Holmes

Personally came before me this 15th day of December A.D. 1981, Thomas M. Beckley, President, and Arlene R. Holmes, Secretary of the above named Corporation to me known to be the persons who executed the foregoing instrument, and to me known to be such President and Secretary of said Corporation, and acknowledged that they executed the foregoing instrument as such officers as the deed of said Corporation, by its authority.

Jenna C. Sullivan

 LINDA C. SULLIVAN
NOTARY PUBLIC-MINNESOTA
HENNEPIN COUNTY
My Commission Expires Nov. 28, 1988

000778

THIS INDENTURE, Made by Northland College

a Corporation duly organized and existing under and by virtue of the laws of the State of Wisconsin, grantor, of Ashland County, Wisconsin, hereby conveys and warrants to City of Ashland, a municipal corporation

grantee, of Ashland County, Wisconsin, for the sum of valuable consideration

the following tract of land in Ashland County, State of Wisconsin:

A parcel of land comprising Blocks Four Hundred and One (401), Four Hundred and Two (402), Four Hundred and Three (403), Four Hundred and Four (404), Four Hundred and Five (405), Fractional Block Four Hundred and Six (406), part of the Northerly One-Half (N 1/2) of Block Sixty-eight (68) and Sixty-nine (69), all in Vaughn's Division; all of Blocks Twenty-nine (29) and Thirty (30), Lots Thirteen (13) through Twenty-four (24), inclusive, Block Thirty-one (31), all in Ellis Division; and Lots Eight (8) and Nine (9) of Fifield Place; and all intervening streets, avenues and alleys, vacated or to be vacated, all in the City of Ashland, Ashland County, Wisconsin; also the so-called Commercial Dock, all lying and being within the following metes and bounds description:

Commencing at the point of intersection of the Northeasterly line of Seventh Avenue East in the City of Ashland with a line running parallel with and fifty (50) feet distant Northwesterly (measured at right angles) from the center line of the Soo Line Railroad Company's so-called Bay City Spur as now located, maintained and operated over and across Blocks Thirty-seven (37), Thirty-six (36), Twenty-one (21) and Twenty-two (22), all in said Ellis Division;

Thence Westerly along a line running parallel with and fifty (50) feet distant Northwesterly (measured at right angles) from the center line of said Bay City Spur and the center line of the so-called Commercial Dock Track (now known as the main line track) of the Soo Line Railroad Company's Railroad as the same is now located, maintained and operated over and across said lands to a point in the Northerly line of Block Thirty-three (33), Ellis Division, where a curve to the right, with a radius of Five Hundred Seventy-three and Six Hundred and Eighty-six Thousandths (573.686) feet, will start in order to be tangent to a line drawn parallel with and One Hundred and Twenty-five (125) feet distant Southwesterly (measured at right angles) from the Southwesterly line of Second Avenue East in the City of Ashland, being the actual point of beginning of the land herein described;

Thence Southwesterly, Westerly and Northwesterly on said above mentioned curved line to a point One Hundred and Twenty-five (125) feet distant Southwesterly from said Southwesterly line of Second Avenue East extended Northwesterly; (description continued on reverse side)

(IF NECESSARY, CONTINUE DESCRIPTION ON REVERSE SIDE)

In Witness Whereof, the said grantor has caused these presents to be signed by Malcolm McLean

its President, and countersigned by Joseph M. Jauquet

its Secretary, at Ashland, Wisconsin, and its corporate seal to be hereunto affixed this 23rd day of January, A. D., 1986.

SIGNED AND SEALED IN PRESENCE OF

Carolyn Tarasewicz
Carolyn Tarasewicz
Harvey Haukaas
Harvey Haukaas

NORTHLAND COLLEGE

Malcolm McLean Corporate Name
Malcolm McLean President

COUNTERSIGNED:
Joseph M. Jauquet Secretary

STATE OF WISCONSIN

Ashland County, ss.

Personally came before me, this 23 day of January, A. D., 1986, Malcolm McLean, President, and Joseph M. Jauquet, Secretary of the above named Corporation, to me known to be the persons who executed the foregoing instrument, and to me known to be such President and Secretary of said Corporation, and acknowledged that they executed the foregoing instrument as such officers as the deed of said Corporation, by its authority.

THIS INSTRUMENT WAS DRAFTED BY

Scott W. Clark
Ashland, Wisconsin

Donald N. Clark
NOTARY PUBLIC
54806

Notary Public, Ashland County, Wis.
My commission (expires) (is) 3/16/1986

REGISTER OF DEEDS OFFICE
ASHLAND COUNTY, WIS.
Received for Record
at 10:15 A.M. Only recorded in
Vol. 396 of Records on page 148
JAN 30 1986
Wendell R. Fiske
REGISTER OF DEEDS

RETURN TO
TAX EXEMPT #2

6600779
(125) feet distant Southwesterly (measured at right angles) from said Southwesterly line of Second Avenue East extended Northwesterly to the established Government Dock Line (Harbor Line) in said Chequamegon Bay;

Thence Westerly along said Government Dock Line to a point of intersection with the Northerly extension of the Westerly line of Block Sixty-nine (69) in said Vaughn's Division;

Thence Southerly along said Westerly line of Block Sixty-nine (69) extended Northerly to a point of intersection with a line running parallel with and fifty (50) feet distant Northwesterly (measured at right angles) from the center line of the main track of the Soo Line Railroad Company's railroad as the same is now located, maintained and operated over and across said lands;

Thence Northeasterly along the last mentioned parallel line to a point of intersection with the Westerly line of said Block Thirty-Three (33), Ellis Division;

Thence Easterly in a straight line to the point of beginning.

EXCEPTING therefrom all that part lying Northeasterly of the Northwesterly extension of the Southwesterly line of said Second Avenue East;

AND EXCEPTING that portion of Vacated St. Claire Street lying between the Westerly line of Ellis Avenue and the extended Westerly line of Lot Seventeen (17), Block Sixty-seven (67), Ellis Division, and Fractional Lots One (1) through Five (5), inclusive, of that Block lying North of Lots Thirteen (13) through Seventeen (17), inclusive, Block Sixty-seven (67), Ellis Division, sometimes described as Block Four Hundred and Six (406) and as Block Four Hundred and Sixteen (416) of Ellis Division;

AND EXCEPTING part of Lot Nine (9) lying Southerly of a line fifty (50) feet Southerly of said Commercial Dock Track, Fifield Place.

ELLIS, DIVISION
Block 32
Lots 1 - 5

<u>Grantor</u>	<u>Grantee</u>	<u>Vol/Pg</u>	<u>Inst.</u>	<u>WD/QC</u>	<u>Date</u>	<u>Cons.</u>	<u>Rec. Date</u>	<u>Description</u>
Edwin Ellis Martha B. Ellis	Alexander Ellis	1/156	-	QC	8/2/1861	3000	-	All lots and blocks in Bay City
Edwin Ellis Martha B. Ellis	George Stuntz Mary J. Stuntz	3/184	-	QC	9/16/1870	3000	9/16/1870	Conveys lots 1-6 in Block 32
George Stuntz Mary J. Stuntz	Wisconsin Cen- tral Railway Co.	5/367	-	QC	12/19/1873	1.00	6/9/1874	Conveys a strip of land 50' wide on either side of the center of the rail- road track in lots 1-5, Block 32
George Stuntz Mary J. Stuntz	Lucien P. Wetherby Sophie Wetherby	7/16	3211	QC	9/4/1887	1.00	9/4/1887	Lots 1 - 5 in Block 32
Lucien Wetherby Sophie Wetherby	Gilbert Carrington	19/271	5534a	QC	8/5/1887	1.00	6/17/1887	Lots 1 - 5 in Block 32
Gilbert Carrington	Thomas Bardon Jennie G. Bardon	32/91	5570a	QC	6/20/1887	1.00	6/20/1887	Lots 1 - 5 in Block 32
Ashland County	Ashland County	9/521	6015	Tax	7/16/1887	50.05	7/18/1887	Lots 1 - 5 in Block 32 Sold for .32 each Sale date 5/14/1878

000780

<u>Grantor</u>	<u>Grantee</u>	<u>Vol/Pg</u>	<u>Inst.</u>	<u>WD/QC</u>	<u>Date</u>	<u>Cons.</u>	<u>Rec. Date</u>	<u>Description</u>
Ashland County	Ashland County	10/293	8038	QC.	1/5/1882	1.00	1/9/1882	Lots 1-5 in Block 32 Sale 5/28/1881
Ashland County	Ashland County	8/244	3775	Tax	2/9/1880	46.84	-	Lots 1 - 5 in Block 32 Sold for .32 each Sale date 5/9/1876
Ashland County	Ashland County	11/208	111140	Tax	6/26/1882	106.55	7/20/1882	Blocks 1 - 5 in Block 32 Sold for .56 each Sale date 5/13/1879
Ashland County	Ashland County	16/311	11814	Tax	5/17/1881	72.37	5/27/1884	Blocks 1 - 5 in Block 32 Sold for .61 Sale date 5/27/1884
Ashland County	James E. Palmer John H. Rice	39/317	1916a	Release	8/7/1886	524.48	8/7/1886	All of lots 13, 19, 21, 22, 23, 24 in Block 32
Lucien P. Wetherby by Sophia Wetherby	Gilbert W. Carrington	19/271	5534a	QC	8/3/1884	1.00	6/17/1887	Lots 1 - 5 in Block 32
Wm. McDermott Anna P. McDermott Chester T. Kennan Katie E. Kennan	Thomas L. Kennan	19/309	6832a	QC	9/16/1887	1.00	10/12/1887	Undivided 1/2 of lots 1 - 5 in Block 32

1877/

<u>Grantor</u>	<u>Grantee</u>	<u>Vol/Pg</u>	<u>Inst.</u>	<u>WD/QC</u>	<u>Date</u>	<u>Cons.</u>	<u>Rec. Date</u>	<u>Description</u>
Chester T. Kennan Katie Kenan	Thomas Kennan	19/310	6833a	QC	10/11/1887	600	10/12/1887	Undivided 1/3 of Lots 1 - 5 in Block 32
George P. Rossman Lillie W. Rossman	Chester P. Kennan	22/467	4177a	WD	3/26/1887	4500	3/29/1887	Lots 1 - 5 in Block 32 situated within 25' of the railroad center track
Edwin Abbot Martha Abbot	George P. Rossman Lillie W. Rossman	24/471	4099a	WD	3/5/1887	554	3/28/1887	Lots 1 - 5 in Block 32 situated 25' from the center track of the railroad right of way
Gilbert W. Carrington	Thomas Bardon	32/91	5570a	QC	6/20/1887	1.00	6/20/1887	Lots 1 - 5 in Block 32
Thomas Bardon Jennie G. Bardon	Thomas Kennan Loa Kennan	39/317	16675	QC	7/23/1891	1000	8/4/1891	Lots 1 - 5 in Block 32
Thomas Kennan Loa Kennan	T. L. K. Hutchins	39/321	16786	QC	8/20/1891	6000	8/27/1891	Lots 1 - 5 in Block 32
Thomas Kennan Loa Kennan	K. K. Kennan	50/154	X1898	WD	4/12/1893	25000	6/29/1893	Lots 1 - 5 in Block 32 (undivided 2/3)
K. K. Kennan	Loa Kennan	50/155	X1899	WD	4/12/1893	25000	6/29/1893	Undivided 2/3 of lots 1 - 5 in Block 32

m782

<u>Grantor</u>	<u>Grantee</u>	<u>Vol/Pg</u>	<u>Inst.</u>	<u>WD/QC</u>	<u>Date</u>	<u>Cons.</u>	<u>Rec. Date</u>	<u>Description</u>
Thomas Kennan Loa Kennan	Wm. McDermott Anna C. McDermott	39/634	X5224	QC	12/14/1895	1.00	1/7/1896	Lots 1 - 5 in Block 32 which are situated north of the right of way of the railroad Spur Track
Wm. McDermott Anna McDermott	John Burch Cornelia S. Burch	78/210	X18682	QC	3/13/1903	1.00	3/24/1903	Lots 1 - 5 in Block 32 that are situated north of the Wis. Central Railroad
Thomas Kennan Loa Kennan	Wm. McDermott Anna C. McDermott	80/443	X19623	QC	6/22/1903	1500	7/3/1903	All that part of lots 1 - 5 in Block 32 situated south of the railroad right of way
John Burch Cornelia S. Burch	Wis. Central	93/56	X26667	QC	2/18/1907	1.00	2/23/1907	All those parts of lots 1 - 5 in Block 32 which are north-erly of the Wis. Central Railway Co.
Oswald Murphy Annie Murphy	Crague C. Big- low	131/106	X68475	WD	3/18/1922	2250	3/24/1922	All those parts of lots 1 - 5 situated and lying south of the railroad right of way in Block 32

000783

<u>Grantor</u>	<u>Grantee</u>	<u>Vol/Pg</u>	<u>Inst.</u>	<u>WD/QC</u>	<u>Date</u>	<u>Cons.</u>	<u>Rec. Date</u>	<u>Description</u>
Crague C. Biglow Mildred M. Biglow	Arthur R. Thebert Clara M. Thebert	140/247	X83263	WD	4/9/1929	3150	4/17/1929	All that part of lots 1 - 5 in Block 32 south of the railroad right of way
Arthur R. Thebert Clara M. Thebert	Carl A. Larsen Louise P. Larsen	141/87	X85277	WD	6/7/1930	1.00	6/9/1930	All that part of lots 1 - 5 in Block 32 south of the railroad right of way
Ashland County	Ashland County	151/175	X102123	Tax	3/29/1939	22046.79	3/31/1931	Lots 1 - 5 in Block 32 Sold for combined price of parcels \$1123.41 The sum of \$1123.38 was redeemed by the John Schroeder Lum- ber Co. 6/13/1935 leaving an undivid- ed 1/2 due Sale date 6/14/1932
Ashland County	Ashland County	151/182	X102168	Tax	4/12/1939	1123.41	4/12/1939	Lots 1 - 5 in Block 32 Sold for \$1123.41 total of all parcels Sale date 6/14/1932 Correction of 151/ 175 dated 3/29/1939

mm784

<u>Grantor</u>	<u>Grantee</u>	<u>Vol/Pg</u>	<u>Inst.</u>	<u>WD/QC</u>	<u>Date</u>	<u>Cons.</u>	<u>Rec. Date</u>	<u>Description</u>
Ashland County	Ashland County	151/194	X102642	Tax	7/11/1939	2954	7/11/1939	Lots 1 - 5 of Block 32 north of the railroad right of way Sold for \$1926.40 Combined with others Sale date 8/1/1933
Carl Larsen Louise Larsen	Ralph Fromholz	159/401	X102840	WD	8/11/1939	2600	8/15/1939	That portion of lots 1 - 5 in Block 32 lying south of the railroad right of way
John Schroeder Lumber Co.	Ashland County	156/317	X103493	QC	12/6/1939		12/21/1939	All those parts of lots 1 - 5 in Block 32 lying north of the railroad right of way
Ashland County	Carl Larsen Louise Larsen	82/591	X103612	QC	1/25/1940	1.00	1/25/1940	That portion of lots 1 - 5 in Block 32 lying south of the railroad right of way
Ralph Fromholz Josephine Fromholz	Henry J. Fromholz Bertha Fromholz	167/1	X105697	WD	3/19/1941	1.00	3/20/1941	Those parts of lots 1 - 5 in Block 32 lying south of the railroad right of way
Ashland County	Wis. Central Railroad Co.	156/429	X106847	QC	8/12/1941	1.00	9/26/1941	Those parts of lots 1 - 5 in Block 32 lying north of the railroad right of way

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<u>Grantor</u>	<u>Grantee</u>	<u>Vol/Pg</u>	<u>Inst.</u>	<u>WD/QC</u>	<u>Date</u>	<u>Cons.</u>	<u>Rec. Date</u>	<u>Description</u>
Ashland County	City of Ashland	168/52	X107607	QC	3/12/1942	1.00	3/13/1942	Lots 1 - 5 in Block 32 less the railroad right of way
Henry Fromholz Bertha Fromholz	Ralph Fromholz Josephine Fromholz	177/347	X177/347	QC	4/30/1946	1.00	6/5/1946	That part of lots 1 - 5 in Block 32 lying south of the railroad right of way
City of Ashland	Ralph Fromholz Josephine Fromholz	190/27	X143514	QC	5/9/1956	1.00	5/16/1956	Those parts of lots 1 - 5 lying south of the railroad right of way
Ralph Fromholz Josephine Fromholz	St. Agnes Catholic Congregation	202/92	X144268	WD	5/14/1956	1.00	8/29/1956	Those parts of lots 1 - 5 in Block 32 lying south of the railroad right of way
Soo Line Railroad Company	Northland College	364/447	X204751	QC	12/15/1981		4/2/1982	see attached
St. Agnes Catholic Congregation	Our Lady of the Lake Catholic Congregation	438/123	X234715	WD	3/19/1992		4/21/1992	That portion of St. Claire St. vacated between Blocks 32 and 65

000786

<u>Grantor</u>	<u>Grantee</u>	<u>Vol/Pg</u>	<u>Inst.</u>	<u>WD/QC</u>	<u>Date</u>	<u>.Cons.</u>	<u>Rec. Date</u>	<u>Description</u>
Our Lady of the Lake Catholic Congregation	Ashland School District	453/317	X241942	WD	9/16/1993		2/18/1994	see attached

000787

228-000
Vol 364 Records 447


THIS INDENTURE, Made by SOO LINE RAILROAD COMPANY, successor by merger to Wisconsin Central Railroad Company and Minneapolis, St. Paul & Sault Ste. Marie Railroad Company, a Corporation duly organized and existing under and by virtue of the laws of the State of Minnesota, Grantor, of Minneapolis, Hennepin County, Minnesota, 55402, hereby quit claims, transfers, grants and conveys unto NORTHLAND COLLEGE, a Wisconsin non-profit corporation, Grantee, of Ashland County, Wisconsin, as a gift, the following tract of land in Ashland County, State of Wisconsin:

X204751
A parcel of land comprising Blocks 401, 402, 403, 404, 405, 406, 30, 68, and 69, all in Vaughn's Division, Blocks 28, 29, 30, 31 (otherwise known as Fifield Place), 32, and 33, all in Ellis' Division, and all intervening streets and alleys, vacated or to be vacated, all in the City of Ashland, Ashland County, Wisconsin, according to the plats thereof on file and of record in the Office of the Register of Deeds in and for said County; also the so-called Commercial Dock, all lying and being within the following description: commencing at the point of intersection of the northeasterly line of Seventh Avenue East in the City of Ashland with a line running parallel with and fifty (50) feet distant northwesterly (measured at right angles) from the center line of the Soo Line Railroad Company's so-called Bay City Spur as now located, maintained and operated over and across Blocks 37, 36, 21, and 22, all in said Ellis' Division; thence westerly along a line running parallel with and fifty (50) feet distant northwesterly (measured at right angles) from the center line of said Bay City Spur and the center line of the so-called Commercial Dock Track (now known as the main line track) of the Soo Line Railroad Company's Railroad as the same is now located, maintained, and operated over and across said lands to a point in the Northerly line of Block 33, Ellis' Division where a curve to the right, with a radius of five hundred seventy-three and six hundred eighty-six thousandths (573.686) feet, will start in order to be tangent to a line drawn parallel with and 125 feet distant southwesterly (measured at right angles) from the southwesterly line of Second Avenue East in the City of Ashland, being the actual point of beginning of the land herein described; thence southwesterly, westerly, and northwesterly on said above mentioned curved line to a point 125 feet distant southwesterly from said southwesterly line of Second Avenue East extended northwesterly; thence northwesterly on a line drawn parallel with and 125 feet distant southwesterly (measured at right angles) from said southwesterly line of Second Avenue East extended northwesterly to the established Government Dock Line (Harbor Line) in said Chequamegon Bay; thence westerly along said Government Dock Line to a point of intersection with the northerly extension of the westerly line of Block 69 in said Vaughn's Division; thence southerly along said westerly line of Block 69 extended northerly to a point of intersection with a line running parallel with and fifty (50) feet distant northwesterly (measured at right angles) from the center line of the main track of the Soo Line Railroad Company's railroad as the same is now located, maintained, and operated over and across said lands; thence northeasterly along the last mentioned parallel line to a point of intersection with the westerly line of said Block 33, Ellis' Division; thence easterly in a straight line

Subject to any and all existing utilities and easements, leases, licenses and permits heretofore granted by the Grantor, or its predecessors in interest, affecting the herein described premises.

IN WITNESS WHEREOF, the said grantor has caused these presents to be signed by Thomas M. Beckley, its President, and countersigned by Ariene R. Holmes, its Secretary, at Minneapolis, Minnesota, and its corporate seal to be hereunto affixed, this _____ day of _____, 1981.


John P. Roddy

BY 
Vice President
Thomas M. Beckley

By Arlene R. Holmes
Its Secretary
Arlene R. Holmes

Personally came before me this 15th day of December A.D. 1981. Thomas M. Beckley, President, and Arlene R. Holmes, Secretary of the above named Corporation to me known to be the persons who executed the foregoing instrument, and to me known to be such President and Secretary of said Corporation, and acknowledged that they executed the foregoing instrument as such officers as the deed of said Corporation, by its authority.

Quinn C. Sullivan

 LINDA C. SULLIVAN
NOTARY PUBLIC-MINNESOTA
HENNEPIN COUNTY
My Commission Expires Nov. 21, 2005

X241942

REGISTER OF DEEDS OFFICE

ASHLAND COUNTY, WIS.

Received for Record

at 2¹² o'clock P M. duty recorded in

Vol. 453 of Records on Page 317

FEB 18 1994

Wendell R. Fisher
REGISTER OF DEEDS

This indenture, Made this 16th day of September
A. D., 1923, between Our Lady of the Lake Catholic Community
Ashland School District, a Corporation duly organized and existing under and by
virtue of the laws of the State of Wisconsin, located at Ashland
Wisconsin, party of the first part, and

part Y..... of the second part. ✓

Witnesseth, That the said party of the first part, for and in consideration of the sum of _____ to it paid by the said part. Y of the second part, the receipt whereof is hereby confessed and acknowledged, has given, granted, bargained, sold, remised, released, aliened, conveyed and confirmed, and by these presents does give, grant, bargain, sell, remise, alien, convey, and confirm unto the said part Y of the second part. its heirs and assigns forever, the following described real estate, situated in the County of Ashland State of Wisconsin, to-wit:

See Attached

fee exempt
#77.25 (29)

(IF NECESSARY, CONTINUE DESCRIPTION ON REVERSE SIDE)

[illegible][illegible]

1. Имя, фамилия, отчество:
 2. Адрес:
 3. Телефон:
 4. Почтовый адрес:
 5. Подпись:
 6. Дата:

[illegible]

In Witness Whereof, the said Our Lady of the Lake Catholic Community
party of the first part, has caused these presents to be signed by Most Reverend Raphael M. Fliss, D.D.
its President, and countersigned by Donna J. Siedlecki, its Secretary
at Ashland

day of September, A. D., 1993.

SIGNED AND SEALED IN PRESENCE OF

OUR LADY OF THE LAKE CATHOLIC COMMUNITY

Corporate Name

+ Amphibolite thin

President

Most Reverend Raphael M. Fliss

COUNTERSIGNED:

Donna O. Siedler

Donna J. Siedlecki Secretary

STATE OF WISCONSIN

Ashland County SS.

Personally came before me, this 16th day of September, 1993
Reverend Bernard M. Eli

Most Reverend Raphael M. Fliss, D.D., President, and Dennis J. Siedlecki, Secretary
of the above named Corporation, to me known.

President and Secretary of said Corporation, and acknowledged that they executed the foregoing instrument as such officers as the deed of said Corporation, by its authority.

THIS INSTRUMENT WAS DRAFTED BY

Attorney Michael D. Wartm
State Bar No. 1019303)

Dallenbach, Anich & Wartm

(Section 59.51 (1) of the Wis
the names of the grantors, gra

mental agency which drafted

Notary Public, Ashtland

My commission (expires) (is) July 11, 1964

ments to be recorded shall have plainly printed or typewritten thereon

29 VV similarly requires that the name of the person who, or persons

Vol 453 Pg 317

166000

PROPERTY DESCRIPTION

A parcel of land located in part of Lots One (1), Two (2), Three (3), Four (4) and Five (5), lying south of the railroad right-of-way in Block Thirty-two (32), part of vacated St. Claire Street, and part of Lots Nineteen (19), Twenty (20), Twenty-one (21), Twenty-two (22), Twenty-three (23) and Twenty-four (24), Block Sixty-five (65), all in Ellis Division, in the City of Ashland, Ashland County, Wisconsin.

Commencing at the intersection of centerlines of 2nd Avenue East and St. Claire Street; Thence No. $58^{\circ} 00' 00''$ East, 33.00 feet along the centerline of St. Claire Street; Thence N. $32^{\circ} 00' 00''$ West, 47.29 feet to a set 1 1/4" iron pipe being the Point of Beginning;

Thence N. $50^{\circ} 32' 52''$ East, 100.07 feet along the south right-of-way of the railroad to a set 1 1/4" iron pipe;

Thence S. $70^{\circ} 05' 31''$ East, 65.72 feet to a set 1 1/4" iron pipe;

Thence S. $34^{\circ} 18' 43''$ East, 52.93 feet to a set 1 1/4" iron pipe;

Thence S. $55^{\circ} 41' 17''$ West, 142.02 feet to a set 1 1/4" iron pipe on the East right-of-way of 2nd Avenue East;

Thence N. $32^{\circ} 00' 00''$ West, 97.36 feet to the Point of Beginning.

Parcel contains 13,391 sq. ft., 0.30 acres.

Bearings are assumed N. $32^{\circ} 00' 00''$ West along the centerline of 2nd Avenue East.

REVERSION

- UPON: 1. Grantee, its assigns, or successors ceasing to operate a Title 1 Educational Program to Our Lady of the Lake students on the above described premises, for longer than twenty-four (24) months; or
2. Grantor determining that the above described premises is required for building project needs of grantor, giving twenty-four (24) months written notice to grantee;

Then this deed shall be null and void, and the grantor shall have the right to enter upon the premises conveyed and to hold and own same as fully as if this conveyance had not been made.

ELLIS DIVISION
Block 32
Lots 6 - 12

<u>Grantor</u>	<u>Grantee</u>	<u>Vol/Pg</u>	<u>Inst.</u>	<u>WD/QC</u>	<u>Date</u>	<u>Cons.</u>	<u>Rec. Date</u>	<u>Description</u>
Edwin Ellis Martha B. Ellis	Alexander Ellis	1/156	-	QC	8/2/1861	3000	-	All lots and blocks in Bay City
Edwin Ellis Martha B. Ellis	George R. Stuntz	3/184	-	QC	8/16/1870	3000	8/17/1870	Lot 6 in Block 32
George Stuntz Mary J. Stuntz	Wis. Central Railroad Co.	5/364	-	QC	12/19/1873	1.00	6/9/1874	Conveys a strip 50' in width on each side of center line of track running through lot 6 in Block 32
Geo. R. Stuntz Mary J. Stuntz	Lucien P. Wetherby	7/16	3211	QC	9/4/1877	1.00	9/4/1877	Lot 6 in Block 32
Ashland County	Edwin H. Abbot	9/521	6015	Tax	7/16/1881	50.05	7/18/1881	Conveys an undivid- ed 1/2 interest in lot 6 of Block 32 (sold for .32) Sale date 5/14/1878
Ashland County	Edwin Abbot	10/293	8038	QC	5/28/1881	1.00	1/9/1882	Lot 6 in Block 32
Ashland County	Ashland County	8/244	3775	Tax	2/9/1880	46.86	2/9/1880	Lot 6 in Block 32 (sold for .89) Sale date 5/9/1876
Ashland County	Edwin Abbot	8/313	11541	Tax	1/24/1884	8.19	1/24/1884	Lot 6 in Block 32 (sold for .58) Sale date 5/11/1880

000792

<u>Grantor</u>	<u>Grantee</u>	<u>Vol/Pg</u>	<u>Inst.</u>	<u>WD/QC</u>	<u>Date</u>	<u>Cons.</u>	<u>Rec. Date</u>	<u>Description</u>
Ashland County	Edwin H. Abbot	11/208	8038	QC	5/28/1881	1.00	1/9/1882	Lot 6 in Block 32
Ashland County	Ashland County	8/244	3775	Tax	2/9/1880	46.84	2/9/1880	Lot 6 in Block 32 (sold for .89) Sale date 5/9/1876
Edwin Abbot Assignee of Ashland County	Edwin Abbot	8/313	11541	Tax	1/24/1884	8/19	1/24/1884	Lot 6 in Block 32 (sold for .58) Sale date 5/11/1880
Ashland County	Edwin Abbot	11/208	11140	Tax	6/26/1882	106.55	7/20/1882	Lots 6 & 12 in block 32 (sold for .56 each) Sale date 5/13/1879
Ashland County	Edwin Abbot	16/311	11814	Tax	5/22/1884	72.37	5/27/1884	Lot 6 Block 32 (sold for .61) Sale date 5/17/1881
Ashland County	James C. Palmer John H. Rice	20/317	1916a	QC	8/7/1886	5024.48	8/7/1886	All of lots 13, 19, 20, 21, 22, 23, 24 in Block 32 (Tracked incorrec- tly)
Lucien P. Wether- by Sophia Wetherby	Gilbert W. carrington	19/271	5534a	QC	8/5/1884	1.00	6/17/1887	Lots 1-6 in Block 32

000793

<u>Grantor</u>	<u>Grantee</u>	<u>Vol/Pg</u>	<u>Inst.</u>	<u>WD/QC</u>	<u>Date</u>	<u>Cons.</u>	<u>Rec. Date</u>	<u>Description</u>
Edwin H. Abbot Martha T. Abbot	George F. Merrill	19/58	1674a	QC	6/26/1886	175	7/2/1886	Conveys lot 6, Block 32 not situat- ed within 40' of the center line of the railroad track of the Wis. Central Railroad to the dock on the Chequam- egon Bay
G. W. Carrington	Thomas Bardon	32/91	5570a	QC	6/20/1887	1.00	6/20/1887	Lot 6, Block 32
Grace Merrill Hodgkins (executrix for estate of Geo. Merrill)	Arthur S. Stephenson Betty M. Stephenson	172/94	X110205	WD	8/2/1943		8/4/1943	Conveys lots 6,7,8, 9,10,11,12 of Block 32 (deed executed pursuant to land contract dated June 6, 1943
Arthur S. Stephenson Betty M. Stephenson	St. Agnes Congregation	192/606	X141753	WD	9/3/1955	1.00	9/6/1955	Lot 6 Block 32
(Additional lots 8-12)								
Edwin Ellis Martha B. Ellis	Wis. Central Railroad Co.	5/390	-	QC	7/6/1874	1.00	7/10/1874	Conveys 50' on each side of the railroad track running thru lots 7,8,9,10,11 in Block 32

000794

<u>Grantor</u>	<u>Grantee</u>	<u>Vol/Pg</u>	<u>Inst.</u>	<u>WD/QC</u>	<u>Date</u>	<u>Cons.</u>	<u>Rec. Date</u>	<u>Description</u>
Edwin Ellis Martha B. Ellis	Wis. Central Railroad Co.	5/400	-	deed	7/17/1873	1.00	7/29/1874	Right of way for railroad through the following lots 7,8,9,10,11 in Block 32 being 100' in width
Edwin Ellis Martha B. Ellis	W. W. Paddock Harry B. Kirby	7/206	3367	WD	10/10/1878	175	11/11/1878	Conveys lots 7,8,9, 10,11 in Block 32
W. W. Paddock Lizzie Paddock	Samuael S. Vaughn	10/507	9036	deed	4/14/1882	200	4/17/1882	Lots 7,8,9,10,11 in Block 32
Harry B. Kirby	W. W. Paddock	10/510	9039	QC	1/31/1880	100	4/18/1882	Lots 7,8,9,10,11 in Block 32
Emilein E. Vaughn	George F. Merrill	21/223	1471a	WD	5/13/1886	1100	5/21/1886	Lots 7-11 Block 32 along with the railroad right of way
Arthur S. Stephenson Betty M. Stephenson	Rudolph Osredkar Pricilla H. Osredkar	192/409	X138073	WD	3/31/1954	1.00	4/8/1954	All that part of lots 7,8,9,10,11,12 in Block 32 lying and being south of the right of way of the Wis. Central Railroad

000795

<u>Grantor</u>	<u>Grantee</u>	<u>Vol/Pg</u>	<u>Inst.</u>	<u>WD/QC</u>	<u>Date</u>	<u>Cons.</u>	<u>Rec. Date</u>	<u>Description</u>
Rudolph J. Osredkar Pricilla H. Osredkar	St. Agnes Congregation	124/622	X141280	WD	7/6/1955	1.00	7/6/1955	Lots 7,8,9,10,11,12 lying south of the Wis. Central Rail- road Co. right of way
Edwin Ellis Martha B. Ellis	Cornelia C. Baker	2/198	-	QC	12/25/1857	-	1/7/1858	Lots 12, 13 in Block 32
Cornelia C. Baker Daniel A. J. Baker	Wis. Central Railroad Compay	5/87	-	WD	8/27/1872	1.00	-	Conveys a tract of land running through the center of lot 12, Block 32
Ashland County	Ashland County	8/78	3480	Tax	4/9/1879	22.23	4/9/1879	Conveys lot 12, Block 32 Sold for .99 Sale Date 5/11/1875
Ashland County	Edwin Abbot	9/589	6033	Tax	7/28/1881	175.37	7/28/1881	Conveys lots 6 and 12 in Block 32 (Lot 6 is not track- ed) Sold for \$1.00 each Sale date 5/8/1877
Blank page		8/534						
Ashland County	Edwin Abbot	18/381	66a	Tax	5/21/1885	44.47	5/22/1885	Lot 12 in Block 32 Sold for \$1.13 Sale date 5/16/1885

000796

<u>Grantor</u>	<u>Grantee</u>	<u>Vol/Pg</u>	<u>Inst.</u>	<u>WD/QC</u>	<u>Date</u>	<u>Cons.</u>	<u>Rec. Date</u>	<u>Description</u>
Edwin Abbot Martha Abbot	George F. Merrill	19/52	1494a	QC	5/14/1886	150.	5/24/1886	Lot 12 in Block 32
George F. Merrill (Assignee of Ashland Co.)	George F. Merrill	29/104	6547a	Tax	9/16/1887	1.65	9/16/1887	Lot 12 in Block 32 Sold for \$1.65 Sale date 5/20/1884
Geo. F. Merrill (Assignee of Ashland Co.)	George F. Merrill	29/238	11672a	Tax	5/28/1889	1.96	6/1/1889	Conveys lot 12, Block 32 Sold for 1.96 Sale date 5/19/1885
Soo Line Rail- road Company	Northland College	364/447	X204751	QC	12/15/1981		4/2/1982	see attached
St. Agnes Congregation	Our Lady of the Lake Catholic Community	438/123	X234715	WD	3/19/1992		4/21/1992	Conveys all that part of lots 1 -12 in Block 32 lying and being south of the right of way of the Wis. Central Railway Co. and that portion of St. Claire Street vacat- ed between Blocks 32-65

662627

860798

Vol 364 Records 447

THIS INDENTURE, Made by SOO LINE RAILROAD COMPANY, successor by merger to Wisconsin Central Railroad Company and Minneapolis, St. Paul & Sault Ste. Marie Railroad Company, a Corporation duly organized and existing under and by virtue of the laws of the State of Minnesota, Grantor, of Minneapolis, Hennepin County, Minnesota, 55402, hereby quit claims, transfers, grants and conveys unto NORTHLAND COLLEGE, a Wisconsin non-profit corporation, Grantee, of Ashland County, Wisconsin, as a gift, the following tract of land in Ashland County, State of Wisconsin:

A parcel of land comprising Blocks 401, 402, 403, 404, 405, 406, 30, 68, and 69, all in Vaughn's Division. Blocks 28, 29, 30, 31 (otherwise known as Fifield Place), 32, and 33, all in Ellis' Division, and all intervening streets and alleys, vacated or to be vacated, all in the City of Ashland, Ashland County, Wisconsin, according to the plats thereof on file and of record in the Office of the Register of Deeds in and for said County; also the so-called Commercial Dock, all lying and being within the following description: commencing at the point of intersection of the northeasterly line of Seventh Avenue East in the City of Ashland with a line running parallel with and fifty (50) feet distant northwesterly (measured at right angles) from the center line of the Soo Line Railroad Company's so-called Bay City Spur as now located, maintained and operated over and across Blocks 37, 36, 21, and 22, all in said Ellis' Division; thence westerly along a line running parallel with and fifty (50) feet distant northwesterly (measured at right angles) from the center line of said Bay City Spur and the center line of the so-called Commercial Dock Track (now known as the main line track) of the Soo Line Railroad Company's Railroad as the same is now located, maintained, and operated over and across said lands to a point in the Northerly line of Block 33, Ellis' Division where a curve to the right, with a radius of five hundred seventy-three and six hundred eighty-six thousandths (573.686) feet, will start in order to be tangent to a line drawn parallel with and 125 feet distant southwesterly (measured at right angles) from the southwesterly line of Second Avenue East in the City of Ashland, being the actual point of beginning of the land herein described; thence southwesterly, westerly, and northwesterly on said above mentioned curved line to a point 125 feet distant southwesterly from said southwesterly line of Second Avenue East extended northwesterly; thence northwesterly on a line drawn parallel with and 125 feet distant southwesterly (measured at right angles) from said southwesterly line of Second Avenue East extended northwesterly to the established Government Dock Line (Harbor Line) in said Chequamegon Bay; thence westerly along said Government Dock Line to a point of intersection with the northerly extension of the westerly line of Block 69 in said Vaughn's Division; thence southerly along said westerly line of Block 69 extended northerly to a point of intersection with a line running parallel with and fifty (50) feet distant northwesterly (measured at right angles) from the center line of the main track of the Soo Line Railroad Company's railroad as the same is now located, maintained, and operated over and across said lands; thence northeasterly along the last mentioned parallel line to a point of intersection with the westerly line of said Block 33, Ellis' Division; thence easterly in a straight line

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<p>REGISTER OF DEEDS OFFICE ASHLAND COUNTY, WIS. Received for Record Vol. 364 of Records on Page 447 APR 2 1982</p>

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to the point of beginning; it being the intent of the Soo Line Railroad Company to convey all the up-land, filled land, including the so-called Commercial Dock, and riparian rights that it owns lying within the above description. EXCEPTING therefrom all that part lying northeasterly of the northwesterly extension of the southwesterly line of said Second Avenue East.

Subject to any and all existing utilities and easements, leases, licenses and permits heretofore granted by the Grantor, or its predecessors in interest, affecting the herein described premises.

Reserving in the Grantor, its successors and assigns, all oil, gas and other minerals, in or under or produced from said land, together with full right through its servants, employees, agents, licensees or appointees, to enter and re-enter into and upon and pass over and across said lands for the purpose of exploring for, mining and removing such oil, gas and other minerals, or any of them, at all times in such a manner as to not unnecessarily damage the surface of said premises thereby.

IN WITNESS WHEREOF, the said grantor has caused these presents to be signed by Thomas M. Beckley, its President, and countersigned by Arlene R. Holmes, its Secretary, at Minneapolis, Minnesota, and its corporate seal to be hereunto affixed, this day of , 1981.

Signed and Sealed
in Presence of:

John P. Roddy

SOO LINE RAILROAD COMPANY

By Thomas M. Beckley
its President
Thomas M. Beckley

Countersigned:

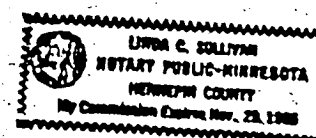
By Arlene R. Holmes
its Secretary
Arlene R. Holmes

STATE OF MINNESOTA)
)SS
COUNTY OF HENNEPIN)

Personally came before me this 15th day of December
A.D. 1981, Thomas M. Beckley, President, and Arlene R. Holmes, Secretary
of the above named Corporation to me known to be the persons who executed
the foregoing instrument, and to me known to be such President and
Secretary of said Corporation, and acknowledged that they executed the
foregoing instrument as such officers as the deed of said Corporation, by
its authority.

Linda C. Sullivan

This instrument was drafted by
Soo Line Railroad Company
1601 Soo Line Building
Minneapolis, Minnesota 55402



ELLIS DIVISION
Block 32
Lots 13 - 24

<u>Grantor</u>	<u>Grantee</u>	<u>Vol/Pg</u>	<u>Inst.</u>	<u>WD/QC</u>	<u>Date</u>	<u>Cons.</u>	<u>Rec. Date</u>	<u>Description</u>
David A. Baker Cornelia Baker	Emily S. C. Eustis	1/14	-	WD	6/5/1860	2440	-	Lot 13 in Block 32
Edwin Ellis Martha B. Ellis	Cornelia C. Baker	2/198	-	QC	12/25/1857		-	Lots 12 - 13 in Block 32
Samuel S. Eustis Emily S. Eustis	Wisconsin Central Railway Co.	5/91	-	WD	10/12/1872	1.00	-	A tract of land 100' wide running through lot 13 in Block 32 for the establishment of a railroad track
Ashland County	Ashland County	8/78	3480	Tax	4/9/1879	23.23	4/24/1879	Lots 12, 13, 19, 20, 21, 22 in Block 32 Sold for: Lots 12, 13 & 19 .99 each; Lots 20, 21, 22 .56 each Sale date 5/11/1875
Ashland County	Edwin H. Abbot	10/293	8038	QC	5/28/1881	1.00	1/9/1882	Lots 13, 19, 20, 21, 22, 23, 24 in Block 32
Ashland County	Ashland County	8/246	3776	Tax	2/9/1880	49.82	3/9/1880	Lots 13, 19, 20, 21, 22, 23, 24 in Block 32 Sold for .64 each Sale date 5/9/1876

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<u>Grantor</u>	<u>Grantee</u>	<u>Vol/Pg</u>	<u>Inst.</u>	<u>WD/QC</u>	<u>Date</u>	<u>Cons.</u>	<u>Rec. Date</u>	<u>Description</u>
Wisconsin Central Rail- road Co. John A. Stewart Edwin H. Abbot Trustees	L. Barber F. Poor T. Poor L. Prentice	12/98	10532	QC	10/9/1882	1.00	1/23/1883	Lots 13, 14, 15, 16 which lies north of a line parallel with a 50' northerly distant line from the center line of the dock tract of Wis. Central Rail- road
George Best Emma Best	Thomas Bardon	12/134	10562½	QC	2/5/1883	1000	2/9/1883	Lots 13, 14, 15, 16 in Block 32
Lisa Prentice Francis X. Poor Tirzah Poor Lucy A. Barber	Charles H. Kingman	15/168	11460	WD	12/31/1883	5000	12/31/1883	Lots 13, 14, 15, 16 in Block 32
Frank M. Wood Maria E. Wood	Charles H. Kingman	15/302	12127	WD	7/28/1884	1.00	8/26/1884	Lots 13, 14, 15, 16 in Block 32
Charles H. King- man Elizabeth Kingman	Charles C. Collins	17/35	12669	WD	12/1/1884	2000	2/7/1885	Lots 13, 14, 15, 16 in Block 32
Ashland County	James E. Palmer John H. Rice	20/317	1916A	Release Deed	8/7/1886	524.48	8/7/1886	Lots 13, 19, 20, 21, 22, 23, 24 in Block 32
Emily Eustis	Edwin H. Abbot	19/329	7276a	QC	11/16/1887	1.00	11/25/1887	All that part of lot 13 not situated within 50' of the center line of the track running down to the dock of rail- road

66799

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Ashland County	Edwin Abbot	21/228	1509a	Tax	5/27/1886	58.60	5/27/1886	Lots 13, 14, 15, 16, 17 not included in the railroad right of way in Block 32 Also lot 18, Blk. 32 Sold for .57 each Sale date 5/15/1883
Wisconsin Central Railroad Co. John A. Stewart Edwin H. Abbot Trustees	Charles C. Collins	19/355	7756a	QC	12/10/1887	1.00	1/9/1888	All that part of lots 13, 14, 15, 16 in Block 32 which lies northwesterly of a line drawn parallel with & 50' distant northwesterly from the center line of the Bay Shore tracks as well as reparation rights annexed to and all reparation rights north of Block 33 on Prentice Street
Charles C. Collins W. R. Sutherland Wm. M. Tomkins		34/173	8049a	WD	2/3/1888	25500	2/9/1888	Lots 13, 14, 15, 16 in Block 32 excepting the railroad right of way See V41 Pg 70 also



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C. A. J. Baker Dan Baker Cornelia A. Hollinshead Henry R. Hollinshead (Heirs of Cornelia Baker)	Emily S. Eustis	32/366	8892a	QC	12/30/1887	1.00	5/8/1888	Lot 13 (corrects Vol.1, Page 14)
W. R. Suther- land Jane Sutherland	Alexander P. Wood	41/70	11911a	WD	5/31/1889	10000	7/5/1889	Lots 13, 14, 15, 16 in Block 32 except- ing for the rail- road right of way
Edwin H. Abbot Martha T. Abbot	Thomas L. Kennan	39/378	18214	QC	4/4/1892	250	4/6/1892	All that part of Lot 13 not situated within a distance of 50' of the center line of the railroad
Alexander P. Wood Margaret Wood	W. R. Suther- land	51/80	X148	WD	8/16/1892	10000	8/17/1892	Lots 13, 14, 15, 16 See Vol. 41 Pg 70
W. R. Suther- land Jane Sutherland	Sutherland Lumber Co.	39/558	X3890	QC	1/28/1895	30000	1/28/1895	Lots 13, 14, 15, 16 in Block 32 See Vol. 41, Pg. 70
Wm. Tomkins Elizabeth A. Tomkins	Ashland Realty Company	39/628	X5188	QC	9/13/1894	15000	12/26/1895	Lots 13, 14, 15, 16 in Block 32 right and title and prop- erty by deed Vol.19 Pg. 355

10800

<u>Grantor</u>	<u>Grantee</u>	<u>Vol/Pg</u>	<u>Inst.</u>	<u>WD/QC</u>	<u>Date</u>	<u>Cons.</u>	<u>Rec. Date</u>	<u>Description</u>
Ashland Realty Company	R. C. Pope W. G. Davis	67/18	X6428	WD	10/25/1896	10000	11/12/1896	Lots 13, 14, 15, 16 in Block 32 lying north of the Wis. Central Railroad Co. right of way & west of the boundary line between lots 17 & 18 of Block 33 extended in a direct line to the Government Dock line in part of said property
R. C. Pope Katie S. Pope	Pope Lumber Company	63/165	X8021	WD	11/9/1897	5000	11/20/1897	Lots 13, 14, 15, 16 in Block 32- See Vol. 67 Pg. 18
Ashland Realty Company	R. C. Pope W. G. Davis	63/220	X9064	WD	10/26/1896	10000	9/28/1898	Lots 13, 14, 15, 16 in Block 32- See Vol. 67 Pg. 18
Wilbur G. Davis Trustee, Pope Lumber Co.	John Schroeder Lumber Co.	73/23	X13566	Trustee Deed	1/10/1901	30000	2/28/1901	Lots 13, 14, 15, 16 in Block 32- See Vol. 67 Pg. 18
Thomas L. Kennan	John Schroeder Lumber Co.	117/21	X53923	QC	7/24/1917	10	7/27/1917	Lots 13, 14, 15, 16 in Block 32

700802

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Ashland County	Ashland County	151/175	X102123	Tax	3/29/1939	2246	3/31/1939	<p>Lots 1 - 5 less railroad right of way</p> <p>Lots 13 - 24 (Saw Mill Plant)</p> <p>Lots 17 - 24 north of the railroad right of way in Block 33</p> <p>(Undivided 1/2)</p> <p>\$1123.38 was redeemed by the John Schroeder Lumber Co.</p> <p>Sale date 6/14/1932</p>
Ashland County	Ashland County	151/182	X102168	Tax	4/12/1939	1123.41	4/12/1939	<p>Lots 1 - 5 less railroad right of way</p> <p>Lots 13 - 24 (Saw Mill Plant)</p> <p>Lots 17 - 24 north of the railroad right of way in Block 33</p> <p>Executed in lieu of erroneous tax deed Vol. 151 Pg. 175</p> <p>Sale date 6/14/1932</p>
Ashland County	Ashland County	151/194	X102642	Tax	7/11/1939	2954	7/11/1939	<p>Lots 1 - 5 north of railroad right of way</p> <p>Lots 13 - 24 (Saw Mill Plant)</p> <p>Lots 17 - 24 north of the railroad right of way in Block 33</p> <p>Sale date 8/1/1933</p>

000803

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John Schroeder Lumber Co.	Ashland County	156/317	X103493	QC	12/6/1939		12/21/1939	All that part of lots 1 - 5 north of the railroad right of way, lots 13 - 24 That part of lots 17 - 24, Block 33 north of the rail- road right of way
Ashland County	Wisconsin Central Rail- way Co.	156/429	X106849	QC	8/12/1941	1.00	9/26/1941	All those parts of lots 1 - 5 which lies northwesterly of a line running parallel with & 50' distant southeast- erly (measured at right angles) from said Commercial Dock track. All lots 19 - 24. Those parts of lots 13 - 18 which lie southerly of said northwesterly boundary line.
Ashland County	City of Ashland	168/52	X107607	QC	3/12/1942	1.00	3/13/1942	Lots 1 - 5 less the railroad right of way, lots 13 - 24 (Saw Mill Plant), Lots 17 - 24 north of the railroad right of way Block 33, less the right of ways held by Wis. Central Rail- road Co. Resolution passed 2/4/1942

408004

<u>Grantor</u>	<u>Grantee</u>	<u>Vol/Pg</u>	<u>Inst.</u>	<u>WD/QC</u>	<u>Date</u>	<u>Cons.</u>	<u>Rec. Date</u>	<u>Description</u>
Additional lots 14-24								
Edwin Ellis Martha B. Ellis	Alexander Ellis	1/156	-	QC	8/2/1861	3000		All lots and blocks in Bay City
Edwin Ellis Martha B. Ellis	Phillips & Colby Con- struction Co.	5/402	-	WD	7/18/1873	1.00		Lots 14, 15, 16, 17 and 18 in Block 32
Phillips & Colby Constuc- tion Co.	Wisconsin Central Railroad Co.	7/63	3249	deed	1/1/1877	1.00	12/19/1877	Lots 14, 15, 16, 17, 18 in Block 32
Wis. Central Railroad Co.	John A. Stewart Edwin H. Abbot	7/313	3435	QC	1/4/1879	1.00	4/14/1879	Lots 14, 15, 16, 17, 18 in Block 32
Ashland County	Thomas L. Kennan	29/439	X761	Tax	12/1/1892	13.71	12/1/1892	Lots 14, 15, 16 Sold for \$4.07 each Sale date 5/17/1877
Ashland County	Edwin H. Abbot	18/381	66a	Tax	5/21/1885	44.47	5/22/1885	Lot 17 in Block 32 Sold for .79 Sale date 5/16/1882
Edwin H. Abbot Martha T. Abbot	Henry S. Wilson	21/439	2138a	QC	8/28/1886	8500	9/6/1886	All that portion of lots 17, 19, 20, 21, 22, 23, 24 not situated within a distance of 33' of the center of the Spur Track of Wis. Central Railroad Co.

50800

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Henry S. Wilson	John Niland	24/408	3864a	QC	2/18/1887	13000	3/23/1887	All that portion of lots 17, 19, 20, 21, 22, 23, 24 not situated within a distance of 33' of the center line of the Spur Track of the Wis. Central Railroad.

nm806

<u>Grantor</u>	<u>Grantee</u>	<u>Vol/Pg</u>	<u>Inst.</u>	<u>WD/QC</u>	<u>Date</u>	<u>Cons.</u>	<u>Reg. Date</u>	<u>Description</u>
John Niland	Ashland Real Estate & Improvement Co.	24/414	3863a	WD	3/9/1887	1.00	3/23/1887	All that portion of lots 17, 19, 20, 21, 22, 23, 24 not situated within a distance of 33' of the center of the Spur Track of Wis. Central Railroad Co.
Ashland County	Ashland Real Estate & Improvement Co.	29/174	9685a	Tax	8/25/1888	6.41	8/25/1888	Excepting and receiving all that portion of Lot 17 in Block 32 which is situated within 50' of the center line of the Wis. Central Railroad Co. Sold for .79 Sale date 5/19/1885
Ashland County	Ashland Real Estate & Improvement Co.	29/228	11599a	Tax	5/20/1889	10.19	5/23/1889	Lot 17 in Block 32 except those portions situated within 50' of the center line of the railroad track Sold for \$2.73 Sale date 5/19/1886
Ashland County	T. L. K. Hutchins	29/279	13930a	Tax	5/19/1890	18.78	5/19/1890	All that part of lot 17 in Block 32 not situated within a distance of 50' of the center line of the railroad track Sold for \$4.57 Sale date 5/17/1887

10807

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Ashland County	T. L. K. Hutchins	29/532	3058	Tax	5/21/1894	13.04	5/21/1894	All that part of lot 17 in Block 32 not included in the railroad right of way. Sold for 13.04 Sale date 5/19/1891
T. L. K. Hutchins Bertha F. Hutchins	Ashland Real Estate & Improvement Co.	78/390	X22970	QC	10/27/1904	1.00	10/29/1904	Lot 17 in Block 32
T. L. K. Hutchins Bertha F. Hutchins	Ashland Real Estate & Improvement Company	62/560	X24952	QC	9/10/1895	75	9/9/1905	Lot 17 in Block 32
Ashland Real Estate and Improvement Company	Wisconsin Central Railway Co.	52/28	X28668	QC	-	1.00	2/23/1907	Lot 17 in Block 32
Ashland County	Peter Stefan	8/395	44a	Tax	5/18/1885	8.88	5/19/1885	Lot 18 in Block 32 Sold for .56 Sale date 5/16/1882
Ashland County	Peter Stefan	8/407	70a	Tax	5/23/1885	8.88	5/23/1885	Lot 18 in Block 32 Sold for .56 Sale date 5/16/1882

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<u>Grantor</u>	<u>Grantee</u>	<u>Vol/Pg</u>	<u>Inst.</u>	<u>WD/QC</u>	<u>Date</u>	<u>Cons.</u>	<u>Rec. Date</u>	<u>Description</u>
Ashland County	Peter Stefan	8/413	112a	Tax	6/1/1885	8.88	6/2/1885	Lot 18 in Block 32 Sold for .56 Sale date 5/16/1882
Ashland County	Edwin Ellis	29/106	6559a	Tax	9/17/1887	13.41	9/17/1887	Lot 18 in Block 32 Sold for .72 Sale date 5/20/1884
Edwin Ellis Martha B. Ellis	Peter Stefan	39/156	13798a	QC	12/ /1889	1.00	5/1/1890	Lot 18 in Block 32
Ashland County	A. L. Osborn	72/424	27791	Tax	9/29/1906	5.56	10/3/1906	Lot 18 in Block 32 Sold for \$5.56 Sale date 5/19/1903
A. L. Osborn Alice L. Osborn	Wausau Title Company	93/35	28103	QC	11/20/1906	1.00	11/22/1906	Lot 18 in Block 32
Wausau Title Co.	John Schroeder Lumber Company	93/46	28397	QC	1/7/1907	32.40	1/9/1907	Lot 18 in Block 32
Ashland County	John Schroeder Lumber Company	72/454	X29443	Tax	5/28/1907	5.98	6/1/1907	Lot 18 in Block 32 Sold for \$5.98 Sale date 5/17/1904

60800

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ester Stefan	John L. Lot Charles B. Walker	31/63	4564a	Land Contract	4/1/1887	500	4/9/1887	Lot 18 in Block 32
Irwin Ellis Martha B. Ellis	George R. Stuntz	3/184	-	QC	8/16/1870	3000	6/9/1874	Lots 1, 2, 3, 4, 5, 6, 19, 20, 21, 22, 23, 24 in Block 32
George R. Stuntz Mary J. Stuntz	Wis. Central Railroad Co.	5/367	-	QC	12/19/1873	1.00	6/9/1874	Lots 1, 2, 3, 4, 5, 6, 19, 20, 21, 22, 23, 24 in Block 32
George R. Stuntz Mary Jane Stuntz	Lucien P. Wetherby	7/16	3211	QC	9/4/1877	1.00	9/4/1877	Lots 1, 2, 3, 4, 5, 6, 22, 23, 24 in Block 32
Ashland County	Ashland County	8/54	3468	Tax	4/9/1879	121.17	4/24/1879	Lots 19, 20, 21, 22 in Block 32 Sold for a combined price of \$2.56 Sale date 5/12/1879
Ashland County	Edwin H. Abbot	9/589	6033	Tax	7/28/1881	125.37	7/28/1881	Lots 1, 3, 4, 5, 6, 19, 20, 21, 22, 23, 24 in Block 32 Lots 19, 20, 21, 22, 23, 24 sold for .6 each Sale date 5/8/1877

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Shland County	Edwin H. Abbot	11/208	10140	Tax	6/26/1882	106/55	7/20/1882	Lots 1, 2, 3, 4, 5, 6, 19, 20, 21, 22, 23, 24 in Block 32 Sold for .56 each: Lots 19 - 24 Sale date 5/13/1879
Shland County	Edwin H. Abbot	12/465	10818	Tax	5/15/1883	78.63	5/16/1883	Lots 23 & 24 in Block 32 Sold for .55 each Sale date 5/11/1880
Shland County	Edwin Abbot	16/311	11814	Tax	5/7/1884	72/37	3/27/1884	Lots 19, 20, 21, 22, 23, 24 in Block 32 Sold for .56 each Sale date 5/17/1881
Scien P. Wetherby Phia Wetherby	Gilbert W. Carrington	19/271	5534a	QC	8/5/1884	1.00	6/17/1887	Lots 22, 23, 24 in Block 32
omas L. Kennan a Kennan	William McDermott	19/307	6588a	QC	9/17/1887	1.00	9/21/1887	Undivided 1/3 of Lots 19, 20, 21, 22, 23, 24 in Block 32
lbert W. Carrington	Thomas Bardon	32/91	5570a	QC	6/20/1887	1.00	6/20/1887	Lots 22, 23, 24 in Block 32
hland Real Estate & Improvement Co.	Thomas L. Kennan	32/161	6286a	QC	3/26/1887	1.00	8/27/1887	Lots 19, 20, 21, 22, 23, 24 in Block 32

118000

<u>Grantor</u>	<u>Grantee</u>	<u>Vol/Pg</u>	<u>Inst.</u>	<u>WD/QC</u>	<u>Date</u>	<u>Cons.</u>	<u>Rec. Date</u>	<u>Description</u>
Thomas Bardon Jennie Bardon	Thomas L. Kennan	39/298	16458	QC	6/20/1891	1.00	6/26/1891	All that part of lots 19, 20, 21, 22, 23, 24 which is not situated within 50' of the center line of the Wis. Central Railroad Company track ex- tending down to the dock as the same is now constructed
Thomas L. Kennan Loa Kennan	T. L. K. Hutchins	39/321	16786	QC	8/20/1891	6000	8/27/1891	Fractional lots 19, 20, 21, 22, 23, 24 & all that part of lot 1-5, Block 32 which is situated in the northerly side of the Spur Track of the Wis. Central Railroad Co. extending across Block 32 & down to the Commerical Dock and which is not situated within 50' of the center line of the railroad track.
T. L. K. Hutchins Bertha F. Hutchins	Thomas L. Kennan	62/11	X5059	QC	9/10/1895	1500	11/30/1895	The undivided 2/3 of lots 19, 20, 21, 22, 23, 24 in Block 32

000812

<u>Grantor</u>	<u>Grantee</u>	<u>Vol/Pg</u>	<u>Inst.</u>	<u>WD/QC</u>	<u>Date</u>	<u>Cons.</u>	<u>Rec. Date</u>	<u>Description</u>
Thomas L. Kennan Loa Kennan	William McDermott	69/634	X5224	QC	12/14/1895	1.00	1/7/1896	Lots 19, 20, 21, 22 23, 24 in Block 32 which is situated north of the right of way of the Spur Track
Ashland County	John H. Burch	81/39	X17550	Tax	10/17/1902	51.66	10/17/1902	Undivided 2/3 of lots 19, 20, 21, 22 23, 24 in Block 32 Sold for 51.66 Sale date 5/15/1894
Wm. McDermott Anna C. McDermott	John H. Burch	78/210	X18682	QC	3/13/1903	1.00	3/24/1903	Lots 19, 20, 21, 22 23, 24 situated north of the rail- road track and 50' distant there from
John H. Burch Cornelia Burch	Wis. Central Railway Co.	93/56	X28667	QC	2/18/1907	1.00	2/23/1907	Lots 19, 20, 21, 22 23, 24 which lies northerly of the right of way of the railroad
oo Line Railroad company	Northland College	364/447	X204751	QC	12/15/1981		4/2/1982	See attached

000813

71800
Vol 364 Records 447

THIS INDENTURE, Made by SOO LINE RAILROAD COMPANY, successor by merger to Wisconsin Central Railroad Company and Minneapolis, St. Paul & Sault Ste. Marie Railroad Company, a Corporation duly organized and existing under and by virtue of the laws of the State of Minnesota, Grantor, of Minneapolis, Hennepin County, Minnesota, 55402, hereby quit claims, transfers, grants and conveys unto NORTHLAND COLLEGE, a Wisconsin non-profit corporation, Grantee, of Ashland County, Wisconsin, as a gift, the following tract of land in Ashland County, State of Wisconsin:

X204751
A parcel of land comprising Blocks 401, 402, 403, 404, 405, 406, 30, 68, and 69, all in Vaughn's Division, Blocks 28, 29, 30, 31 (otherwise known as Fifield Place), 32, and 33, all in Ellis' Division, and all intervening streets and alleys, vacated or to be vacated, all in the City of Ashland, Ashland County, Wisconsin, according to the plats thereof on file and of record in the Office of the Register of Deeds in and for said County; also the so-called Commercial Dock, all lying and being within the following description: commencing at the point of intersection of the northeasterly line of Seventh Avenue East in the City of Ashland with a line running parallel with and fifty (50) feet distant northwesterly (measured at right angles) from the center line of the Soo Line Railroad Company's so-called Bay City Spur as now located, maintained and operated over and across Blocks 37, 36, 21, and 22, all in said Ellis' Division; thence westerly along a line running parallel with and fifty (50) feet distant northwesterly (measured at right angles) from the center line of said Bay City Spur and the center line of the so-called Commercial Dock Track (now known as the main line track) of the Soo Line Railroad Company's Railroad as the same is now located, maintained, and operated over and across said lands to a point in the Northerly line of Block 33, Ellis' Division where a curve to the right, with a radius of five hundred seventy-three and six hundred eighty-six thousandths (573.686) feet, will start in order to be tangent to a line drawn parallel with and 125 feet distant southwesterly (measured at right angles) from the southwesterly line of Second Avenue East in the City of Ashland, being the actual point of beginning of the land herein described; thence southwesterly, westerly, and northwesterly on said above mentioned curved line to a point 125 feet distant southwesterly from said southwesterly line of Second Avenue East extended northwesterly; thence northwesterly on a line drawn parallel with and 125 feet distant southwesterly (measured at right angles) from said southwesterly line of Second Avenue East extended northwesterly to the established Government Dock Line (Harbor Line) in said Chequamegon Bay; thence westerly along said Government Dock Line to a point of intersection with the northerly extension of the westerly line of Block 69 in said Vaughn's Division; thence southerly along said westerly line of Block 69 extended northerly to a point of intersection with a line running parallel with and fifty (50) feet distant northwesterly (measured at right angles) from the center line of the main track of the Soo Line Railroad Company's railroad as the same is now located, maintained, and operated over and across said lands; thence northeasterly along the last mentioned parallel line to a point of intersection with the westerly line of said Block 33, Ellis' Division; thence easterly in a straight line

APR 2 1982

Wendell R. Fiske

5/800

to the point of beginning; it being the intent of the
Soo Line Railroad Company to convey all the up-land,
filled land, including the so-called commercial dock,
and riparian rights that it owns lying within the
above description. EXCEPTING therefrom all that part
lying northeasterly of the northeasterly extension of
the southwesterly line of said Second Avenue East.

Subject to any and all existing utilities and easements, leases,
licenses and permits heretofore granted by the grantor, or its
predecessors in interest, affecting the herein described premises.

Reserving in the grantor, its successors and assigns, all oil, gas
and other minerals, in or under or produced from said land, together with
full right through its servants, employees, agents, licensees or
appointees, to enter and re-enter into and upon and pass over and across
said lands for the purpose of exploring for, mining and removing such
oil, gas and other minerals, or any of them, at all times in such a
manner as to not unnecessarily damage the surface of said premises
thereby.

IN WITNESS WHEREOF, the said grantor has caused these presents to be
signed by Thomas M. Beckley, its President, and countersigned by
Athene R. Holmes, its Secretary, at Minneapolis, Minnesota, and its
corporate seal to be hereunto affixed, this 15th day of

Signed and Sealed
in Presence of:

John F. Kelly
Edw. A. Johnson

SOO LINE RAILROAD COMPANY

Thomas M. Beckley
its President

Thomas M. Beckley

Countersigned:

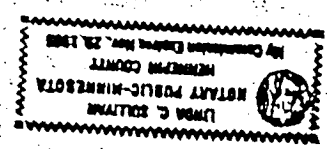
Athene R. Holmes
its Secretary

Athene R. Holmes

STATE OF MINNESOTA
SS
COURT OF HENNEPIN

Personally came before me this 15th day of December
A.D. 1981, Thomas M. Beckley, President, and Athene R. Holmes, Secretary
of the above named Corporation to me known to be the persons who executed
the foregoing instrument, and to me known to be such President and
Secretary of said Corporation, and acknowledged that they executed the
foregoing instrument as such officers as the deed of said Corporation, by
its authority.

This instrument was drafted by
Soo Line Railroad Company
1601 800 Line Building
Minneapolis, Minnesota 55402



ELLIS DIVISION
 Block 33
 Lots 13 - 24

<u>Grantor</u>	<u>Grantee</u>	<u>Vol/Pg</u>	<u>Inst.</u>	<u>WD/QC</u>	<u>Date</u>	<u>Cons.</u>	<u>Rec. Date</u>	<u>Description</u>
Edwin Ellis Martha B. Ellis	Alexander Ellis	1/156	-	QC	8/2/1861	3000	-	All lots and blocks in Bay City
Edwin Ellis Martha B. Ellis	Wisconsin Central Rail- road Company	5/390	-	QC	7/6/1874	1.00	7/10/1874	Right of way as necessary to operate a railroad, not to exceed 50' in width on each side of the center line of the track in lots 13, 14, 17, 18, 24 in Block 33
Edwin Ellis Martha B. Ellis	Wisconsin Central Rail- road Company	5/400	-	deed	7/17/1873	1.00	7/29/1874	Right of way 100' wide through lots 13, 14, 17, 18, 24 in Block 33
Edwin Ellis Martha B. Ellis	Phillips & Colby Construction Company	5/402	-	WD	7/18/1873	1.00	7/29/1874	Lots 13, 14, 19, 20, 21, 22, 23, 24 in Block 33
Phillips & Colby Construction Company	Wis. Central Railroad Co.	7/63	3249	deed	1/1/1877	1.00	12/19/1877	Lots 13, 14, 19, 20, 21, 22, 23, 24 in Block 33
Wis. Central Railroad Co.	John Stewart Edwin Abbot	7/313	3435	QC	1/4/1879	1.00	4/14/1879	Lots 13, 14, 19, 20, 21, 22, 23, 24 in Block 33

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<u>Grantor</u>	<u>Grantee</u>	<u>Vol/Pg</u>	<u>Inst.</u>	<u>WD/QC</u>	<u>Date</u>	<u>Cons.</u>	<u>Rec. Date</u>	<u>Description</u>
Ashland County	Edwin Abbot	11/208	11114a	Tax	6/26/1882	106.59	7/20/1882	Lots 13, 14, 15, 16 Each lot sold for .56 Sale date 5/13/1879
Wis. Central Railroad Co.	Margaret J. Sullivan	35/67	14227a	Rail- road Deed	7/5/1890	400	7/10/1890	Conveys-lots 13 & 14 in Block 33 ex- cepting for the railroad right of way
Margaret J. Sullivan James F. Sullivan	Frank E. Gallaghn	45/55	15562	WD	2/13/1891	550	2/13/1891	Lots 13 & 14 ex- cepting for the railroad right of way
Edwin H. Abbot Martha T. Abbot	Wis. Central Railroad Co.	39/261	13909	QC	4/13/1891	10	4/22/1891	Lots 13 & 14 ex- cept for the rail- road right of way
Frank E. Gallagher	Charles H. Sheffield	46/23	10635	WD	5/6/1891	875	5/7/1891	Lots 13 & 14 except- ing for the rail- road right of way being 50' on each side of the center of the track
Ashland Realty Company	R. C. Pope W. G. Davis	67/18	X6428	WD	10/27/1876	10000	11/12/1896	All of Block 33 lying north of the Wis. Central Rail- road Co. right of way and west of the boundary line be- tween lots 17 & 18 in Block 33 extend- ed in a direct line

20817

<u>Grantor</u>	<u>Grantee</u>	<u>Vol/Pg</u>	<u>Inst.</u>	<u>WD/QC</u>	<u>Date</u>	<u>Cons.</u>	<u>Rec. Date</u>	<u>Description</u>
continued.....		67/18						to the government dock line in front of said property
R. C. Pope Katie Pope W. G. Davis Jemima Davis	Pope Lumber Company	63/165	X8021	WD	11/9/1897	5000	11/20/1897	All of Block 33 lying north of the railroad right of way and west of the boundary line between lots 17 & 18 in Block 33 extended in a direct line to the government dock in front of said property
Ashland Realty	R. C. Pope W. G. Davis	63/220	X9064	WD	10/27/1896	10000	9/28/1898	All that part of Block 33 lying north of the Wis. Central Railroad right of way and west of the boundary line between lots 17 & 18 in Block 33 extended in a direct line to the government dock line in front of said property Correction deed for V 67 page 18.

NR18

<u>Grantor</u>	<u>Grantee</u>	<u>Vol/Pg</u>	<u>Inst.</u>	<u>WD/QC</u>	<u>Date</u>	<u>Cons.</u>	<u>Rec. Date</u>	<u>Description</u>
Wilbur G. Davis Trustee of Pope Lumber Company	John Schroeder Lumber Company	73/23	X13566	Trustee	1/10/1901	30000	2/28/1901	All that part of Block 33 lying north of the railroad right of way and east of the boundary line between lots 17 & 18 in Block 33 extended in a direct line to the government dock line in front of said property. Also part of Block 33 lying north of the the Wis. Central Railroad right of way and west of the boundary line between 17 & 18 extended in a direct line to the government dock line in front of said property.
Sheriff of Ashland County	A. W. Sanborn	73/89	X13917	Sheriff Deed	9/19/1899	7735	4/30/1901	All that part of Block 33 lying north of the Wis. Central Railroad right of way and east of the boundary line between lots 17 & 18 in Block 33 in a direct line to the government dock line in front of said property.

000819

<u>Grantor</u>	<u>Grantee</u>	<u>Vol/Pg</u>	<u>Inst.</u>	<u>WD/QC</u>	<u>Date</u>	<u>Cons.</u>	<u>Rec. Date</u>	<u>Description</u>
Charles H. Shiffield Louisa M. Shiffield	John Schroeder Lumber Co.	79/93	X16936	WD	7/28/1902	375	8/2/1902	Lots 13 & 14 in Block 33 less the railroad right of way
John Schroeder Lumber Company	Peter Lorenzo	163/21	X102577	WD	6/24/1939	1.00	6/28/1939	All those parts of lots 13, 14, 15, 16 in Block 33 lying and being south of the railroad right of way which extends 50' south of center southerly track of the railroad company
Peter Lorenzo	Joseph Dufek Francis Dufek	141/493	X104077	WD	4/29/1940	1.00	4/29/1940	All those parts of lots 13, 14, 15, 16 in Block 33 lying and being south of the railroad right of way wof the railroad which extends 50' to the south of the center of the southerly track of the railroad
Mary Watson	Joseph Kabasa Mary Kabasa	172/81	X109892	WD	6/8/1943	1.00	6/12/1943	All that part of lots 13, 14, 15, 16 in Block 33 lying and being south of the right of way of the railroad

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<u>Grantor</u>	<u>Grantee</u>	<u>Vol/Pg</u>	<u>Inst.</u>	<u>WD/QC</u>	<u>Date</u>	<u>Cons.</u>	<u>Rec. Date</u>	<u>Description</u>
Ashland County	Ashland County	151/353	X120661	Tax	3/25/1947	170.46	3/25/1947	Lots 13, 14, 15, 16 in Block 33 (Sold for a combined price of \$4.30) Sale date 10/1/1940
Ashland County	Lake Superior District Power Company	328/346	X194457	ease- ment	2/8/1978	1.00	4/6/1978	Conveys that part of lots 13-16 in- clusive Block 33 lying north of Wis. Central Railroad Co. right of way. see attached
Additional Lots 15-23								
Cornelia C. Baker Wis. Central Daniel A. J. Baker Railroad Co.		5/87	-	WD	8/27/1872	1.00	8/27/1872	Conveys a tract of land 100' wide in lots 15 & 16 Block 33
Ashland County	Ashland County	8/80	3481	Tax	4/9/1879	77.26	4/10/1879	Lots 15, 16, 17, 18 Block 33 (sold for .99 lots 15, 16, 17 each and lot 18 sold for .87) Sale date 5/11/1879
Ashland County	Edwin Abbot	9/521	6015	Tax	7/16/1881	50.05	7/18/1881	An undivided 1/3 of Lot 15, 16, 17 each selling for .32 and Lot 18 an undivided 1/4 sold for .32. Sale date 5/14/1878

12800

<u>Grantor</u>	<u>Grantee</u>	<u>Vol/Pg</u>	<u>Inst.</u>	<u>WD/QC</u>	<u>Date</u>	<u>Cons.</u>	<u>Rec. Date</u>	<u>Description</u>
Ashland County	Edwin H. Abbot	9/589	6033	Tax	7/28/1881	1025.27	7/28/1881	Lots 15, 16, 17 (Sold for .92 each) Sale date 5/18/1887
Ashland County	Edwin H. Abbot	10/293	8038	QC	5/28/1881	1.00	1/9/1882	All of Block 33
Ashland County	Ashland County	8/246	3776	Tax	2/9/1880	49.82	2/9/1880	Lots 15, 16, 17 (Sold for .33 each) Sale date 5/9/1876
Ashland County	Palmer & Rice	20/317	1916a	Release Deed	8/7/1886	524.48	8/7/1886	Lots 15, 16, 17, 18 Block 33
Edwin H. Abbot	Patrick Sheridan	39/394	18643	QC	10/22/1889	200	6/2/1892	Conveys all that part of lots 15 & 16 in Block 33 on the south side of the Wis. Central Railroad and not situated within a distance of 50' of the central line of the track
Alice Sheridan Nellie Smith Martin Sheridan Minie Welsh (Heirs of Patrick Sheridan)	John Schroeder Lumber Company	95/162	X26137	WD	2/27/1906	275	3/1/1906	All those parts of lots 15 & 16 in Block 33 on the south side of the railroad track and not situated within 50' of center of the track

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<u>Grantor</u>	<u>Grantee</u>	<u>Vol/Pg</u>	<u>Inst.</u>	<u>WD/QC</u>	<u>Date</u>	<u>Cons.</u>	<u>Rec. Date</u>	<u>Description</u>
Additional Lots 17-24								
Edwin Abbot	Hans Frojd	39/387	18524	QC	10/22/1889	180	5/20/1892	All that part of Lots 17 & 18 in Block 33 on the south side of the Wis. Central Railroad and not situated within a 50' distance of the railroad center track line
Edwin Ellis Edwin H. Ellis Johnathan S. Ellis Danielia Loranger (Heirs of Martha B. Ellis)	Bertha J. Frojd	47/119	X6896	QC	4/6/1897	1.00	4/8/1897	Lots 17 & 18 in Block 33
Bertha Frojd Hans Frojd	Carolina Nelson	63/532	X13898	WD	4/26/1901	700	4/27/1901	Lots 17 & 18 in Block 33
Carolina Larson (formerly Carolina Nelson)	Ellen Jane	105/413	X46400	WD	8/20/1914	250	8/21/1914	Conveys all of lots 17 & 18 on the south side of the railroad track being 50' from the center of the track
Ashland County	John Schroeder Lumber Company	91/591	X74877	Tax	12/18/1924	207.13	12/19/1924	Conveys lots 17 & 18 in Block 33 (Sold for a combined price of \$12.35) Sale date 6/14/1921

000833

<u>Grantor</u>	<u>Grantee</u>	<u>Vol./Pg</u>	<u>Inst.</u>	<u>WD/QC</u>	<u>Date</u>	<u>Cons.</u>	<u>Rec. Date</u>	<u>Description</u>
Ashland County	John Schroeder Lumber Company	9/616	X75925	Tax	6/16/1925	254.32	6/17/1925	Conveys lots 17 & 18 north of the railroad right of way, less the railroad right of way Sold for a combined price of \$2.32 Sale date 6/13/1922
Ashland County	John Schroeder Lumber Company	135/76	X80038	Tax	6/15/1927	141.14	6/17/1927	Conveys lots 17 & 18 north of the railroad right of way, less the railroad right of way Sold for a combined price of \$2.21 Sale date 6/9/1925
Ashland County	John Schroeder Lumber Company	135/110	X81766	Tax	6/12/1928	136.78	6/12/1928	Conveys lots 17 & 18 north of the railroad right of way, less the railroad right of way Sold for a combined price of \$2.32 Sale date 6/9/1925
Ashland County	Ashland County	135/312	X95943	Tax	1/29/1935	132.53	1/30/1935	Conveys lots 17 & 18 south and less the railroad right of way Sold for a combined price of \$21.03

000624

<u>Grantor</u>	<u>Grantee</u>	<u>Vol/Pg</u>	<u>Inst.</u>	<u>WD/QC</u>	<u>Date</u>	<u>Cons.</u>	<u>Rec. Date</u>	<u>Description</u>
Ashland County	Ashland County	135/351	X95943	Tax	4/23/1936	97.52	4/24/1936	Conveys lots 17 & 18 south and less the railroad right of way Sold for a combined price of \$21.69 Sale date 6/14/1927
Ashland County	Ashland County	135/352	X95944	Tax	4/23/1936	28.22	4/24/1936	Conveys lots 17 & 18 south and less the railroad right of way Sold for a combined price of \$21.02 Sale date 6/11/1929
Ashland County	Ashland County	151/40	X96468	Tax	7/8/1936	74.05	7/17/1936	Conveys lots 17 & 18 south and less the rail road right of way Sold for a combined price of 21.13 Sale date 6/10/1930
Ashland County	Ashland County	151/175	X1021123	Tax	3/29/1939	2246.79	3/31/1939	Conveys an undivided ½ of lots 17 to 24 Sold for 1123.41 Sale date 6/14/1932 Note: John Schroeder Lumber Co. redeemed ½ interest for 1123.41 on 6/13/1935

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<u>Grantor</u>	<u>Grantee</u>	<u>Vol/Pg</u>	<u>Inst.</u>	<u>WD/QC</u>	<u>Date</u>	<u>Cons.</u>	<u>Rec. Date</u>	<u>Description</u>
Ashland County	Ashland County	151/182	X102168	Tax	4/12/1939	1123.41	4/12/1939	Conveys lots 17-24 Sold for a combined price of 1123.41 Sale Date 6/14/1932 Correction Deed for 151/175
Ashland County	Ashland County	151/194	X102642	Tax	7/11/1939	2954.00	7/11/1939	Conveys lots 17 to 24 in Block 33 north of the rail- road right of way Sold for a combined price of \$1926.40 Sale Date 8/1/1933
John Schroeder Lumber Company	Ashland County	156/317	X103393	QC	12/6/1939		12/21/1939	Conveys lots 17, 18, 19, 20, 20, 22, 23, 24 north of the railroad right of way in Block 33
Ashland County	Wis. Central Railroad Co.	156/429	X106847	QC	8/12/1941	1.00	9/26/1941	Conveys all parts of lots 17-24 in Block 33 which lie northwest of a line running parallel with and 50' dis- tant southeast from the center line of commercial dock track and southeast of the northwest boundary line

000820

<u>Grantor</u>	<u>Grantee</u>	<u>Vol/Pg</u>	<u>Inst.</u>	<u>WD/QC</u>	<u>Date</u>	<u>Cons.</u>	<u>Rec. Date</u>	<u>Description</u>
Ashland County	City of Ashland	168/52	X197607	QC	3/12/1942	1.00	3/13/1942	Conveys lots 17 & 18 in Block 33 north of the railroad right of way
City of Ashland	Lake Superior District Power Compnsy	328/351	X194458		2/8/1978		4/6/1978	Conveys an easement on that part of lots 17-24 in Block 33 lying north of the Wis. Central Railroad Co. track except a 17' wide strip of land which runs through lots 21 & 22 being the Wis. Central Railway Spur Tract as in Vol. 156 pg. 4a9
Additional Lots 19-24								
Wis. Central Railroad Co.	L. Barber L. Prentice T. Poor F. X. Poor	12/98	10532	QC	10/9/1882	1.00	1/23/1883	Conveys lots 19-23 in Block 33 lying north of a line parallel with an area 50' northerly distant from the center line of the dock track of Wis. Central Railroad Co.

00827

<u>Grantor</u>	<u>Grantee</u>	<u>Vol/Pg</u>	<u>Inst.</u>	<u>WD/QC</u>	<u>Date</u>	<u>Cons.</u>	<u>Rec. Date</u>	<u>Description</u>
George Best Emma Best	Thomas Bardow	12/134	10562½	QC	2/5/1883	1000	2/9/1883	Conveys lots 19, 20, 21, 22, 23, 24 in Block 33
Lisa Prentice Francis X. Peer Tirzah Peer Lucy A. Barber	Charles Kingman	15/168	X11460	deed	12/31/1883	5000	12/31/1883	Conveys lots 19 to 24 in Block 33
Frank M. Weed	Charles Kingman	15/302	X12127	QC	7/28/1884	1.00	8/26/1864	Conveys lots 19 to 24 in Block 33
Charles Kingman Elizabeth A. Kingman	Charles C. Collins	17/35	X2669	QC	12/1/1884	2000	2/7/1885	Conveys lots 19 to 24 in Block 33
Wis. Central Railroad Co.	Charles C. Collins	19/335	7756,	QC	12/10/1887	1.00	1/9/1888	All that part of lots 19 to 24 in Block 33 which lies northwesterly of a line drawn parallel with and 50' dis- tant northwesterly from the center line of the Bayshore Track
Charles C. Collins	W. R. Suther- land Wm. M. Tomkins	34/173	8049a	WD	2/3/1888	25500	2/19/1888	Conveys lots 19-24 in Block 33 as in Vol. 19 pg. 355

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<u>Grantor</u>	<u>Grantee</u>	<u>Vol/Pg</u>	<u>Inst.</u>	<u>WD/QC</u>	<u>Date</u>	<u>Cons.</u>	<u>Rec. Date</u>	<u>Description</u>
W. R. Sutherland Jane Sutherland	Alexander P. Wood	41/70	11911a	WD	5/31/1889	10000	7/5/1889	Conveys and undivided ¼ of lots 19-24 in Block 33 excepting for the railroad right of way
Alex. P. Wood Margaret Wood	W. R. Sutherland	50/80	X148	WD	8/16/1892	10000	8/17/1892	Conveys and undivided ¼ of lots 19-24 in Block 33, excepting for the railroad right of way
W. R. Sutherland Jane Sutherland	Sutherland Lumber Co.	39/558	X3890	QC	1/28/1895	30000	1/28/1895	Conveys lots 19-24 in Block 33 with the exception of the property conveyed to the railroad as in V19/P355
Wm. M. Tonkins Elizabeth Tonkins	Ashland Realty Company	39/628	X5188	QC	9/13/1894	15000	12/26/1895	Conveys an undivided ½ of lots 19-24 in Block 33 with the rights of the railroad in V19/P355
Soo Line Railroad Company	Northland College	364/447	X204751	QC	12/15/1981		4/2/1982	See attached

000891

<u>Grantor</u>	<u>Grantee</u>	<u>Vol/Pg</u>	<u>Inst.</u>	<u>WD/QC</u>	<u>Date</u>	<u>Cons.</u>	<u>Rec. Date</u>	<u>Description</u>
Mary M. Kabasa	Eliz. L. Krysiak Joseph Kabasa Robert Kabasa James Kabasa Dennis Kabasa Mary Kay Kabasa	429/612	X230412	WD	12/26/1990		1/2/1991	All that part of lots 13, 14, 15, 16 of Block 33 lying and being south of the railroad right of way. Grantor reserves as a life estate
City of Ashland	Lake Superior District Power Company	328/351	X194458	case- ment	2/8/1978		4/6/1978	Conveys that part of lots 17 - 24 in Block 33 lying north of the rail- road except a 17' wide strip of land through lots 21 & 22 being the Wis. Cen- tral Spur Tract as in Vol. 156 Pg. 429

000830

000831

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THIS INDENTURE, Made by SOO LINE RAILROAD COMPANY, successor by merger to Wisconsin Central Railroad Company and Minneapolis, St. Paul & Sault Ste. Marie Railroad Company, a Corporation duly organized and existing under and by virtue of the laws of the State of Minnesota, Grantor, of Minneapolis, Hennepin County, Minnesota, 55402, hereby quit claims, transfers, grants and conveys unto NORTHLAND COLLEGE, a Wisconsin non-profit corporation, Grantee, of Ashland County, Wisconsin, as a gift, the following tract of land in Ashland County, State of Wisconsin:

A parcel of land comprising Blocks 401, 402, 403, 404, 405, 406, 30, 68, and 69, all in Vaughn's Division, Blocks 28, 29, 30, 31 (otherwise known as Fifield Place), 32, and 33, all in Ellis' Division, and all intervening streets and alleys, vacated or to be vacated, all in the City of Ashland, Ashland County, Wisconsin, according to the plats thereof on file and of record in the Office of the Register of Deeds in and for said County; also the so-called Commercial Dock, all lying and being within the following description: commencing at the point of intersection of the northeasterly line of Seventh Avenue East in the City of Ashland with a line running parallel with and fifty (50) feet distant northwesterly (measured at right angles) from the center line of the Soo Line Railroad Company's so-called Bay City Spur as now located, maintained and operated over and across Blocks 37, 36, 21, and 22, all in said Ellis' Division; thence westerly along a line running parallel with and fifty (50) feet distant northwesterly (measured at right angles) from the center line of said Bay City Spur and the center line of the so-called Commercial Dock Track (now known as the main line track) of the Soo Line Railroad Company's Railroad as the same is now located, maintained, and operated over and across said lands to a point in the Northerly line of Block 33, Ellis' Division where a curve to the right, with a radius of five hundred seventy-three and six hundred eighty-six thousandths (573.686) feet, will start in order to be tangent to a line drawn parallel with and 125 feet distant southwesterly (measured at right angles) from the southwesterly line of Second Avenue East in the City of Ashland, being the actual point of beginning of the land herein described; thence southwesterly, westerly, and northwesterly on said above mentioned curved line to a point 125 feet distant southwesterly from said southwesterly line of Second Avenue East extended northwesterly; thence northwesterly on a line drawn parallel with and 125 feet distant southwesterly (measured at right angles) from said southwesterly line of Second Avenue East extended northwesterly to the established Government Dock Line (Harbor Line) in said Chequamegon Bay; thence westerly along said Government Dock Line to a point of intersection with the northerly extension of the westerly line of Block 69 in said Vaughn's Division; thence southerly along said westerly line of Block 69 extended northerly to a point of intersection with a line running parallel with and fifty (50) feet distant northwesterly (measured at right angles) from the center line of the main track of the Soo Line Railroad Company's railroad as the same is now located, maintained, and operated over and across said lands; thence northeasterly along the last mentioned parallel line to a point of intersection with the westerly line of said Block 33, Ellis' Division; thence easterly in a straight line

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to the point of beginning; it being the intent of the Soo Line Railroad Company to convey all the up-land, filled land, including the so-called Commercial Dock, and riparian rights that it owns lying within the above description. EXCEPTING therefrom all that part lying northeasterly of the northwesterly extension of the southwesterly line of said Second Avenue East.

Subject to any and all existing utilities and easements, leases, licenses and permits heretofore granted by the Grantor, or its predecessors in interest, affecting the herein described premises.

Reserving in the Grantor, its successors and assigns, all oil, gas and other minerals, in or under or produced from said land, together with full right through its servants, employees, agents, licensees or appointees, to enter and re-enter into and upon and pass over and across said lands for the purpose of exploring for, mining and removing such oil, gas and other minerals, or any of them, at all times in such a manner as to not unnecessarily damage the surface of said premises thereby.

IN WITNESS WHEREOF, the said grantor has caused these presents to be signed by Thomas M. Beckley, its President, and countersigned by Arlene R. Holmes, its Secretary, at Minneapolis, Minnesota, and its corporate seal to be hereunto affixed, this _____ day of _____, 1981.

Signed and Sealed
in Presence of:

John P. Roddy

SOO LINE RAILROAD COMPANY

By Thomas M. Beckley
its President
Thomas M. Beckley

Countersigned:

By Arlene R. Holmes
its Secretary
Arlene R. Holmes

STATE OF MINNESOTA)

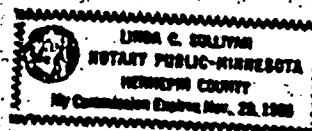
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COUNTY OF HENNEPIN)

Personally came before me this 15th day of December A.D. 1981, Thomas M. Beckley, President, and Arlene R. Holmes, Secretary of the above named Corporation to me known to be the persons who executed the foregoing instrument, and to me known to be such President and Secretary of said Corporation, and acknowledged that they executed the foregoing instrument as such officers as the deed of said Corporation, by its authority.

Linda C. Sullivan

This instrument was drafted by
Soo Line Railroad Company
1601 Soo Line Building
Minneapolis, Minnesota 55402





DAMES & MOORE

A DAMES & MOORE GROUP COMPANY

25 Kessel Court, Suite 201
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December 4, 1998

Mr. Dave Crass
Michael Best & Friedrich
One South Pinckney
P.O. Box 1806
Madison, WI 53701-1806

RE: Gas and Tar Production and Release Estimates
Former MGP - NSP Ashland

Dear Dave:

This letter summarizes the results of our research into the operation and production of manufactured gas and tars at the former LSDP manufactured gas plant (MGP) facility in Ashland, Wisconsin. Information is presented that substantiates the gas production for each year of operation from 1885 - 1946, the likely quantity of tar produced in from the manufacturing process, and the quantity of coal tar product residue measured in the environment near the former MGP and near the former Schroeder Lumber operations.

I. Gas Production

Historic Operating Reports

In our March 2, 1998 letter to the WDNR, we computed a total gas production quantity of 1,371,968 mcf of gas produced at the plant during its 62 year operating life. This was based primarily on data provided following NSP's review of Brown's Directories of Gas Statistics on American Gas companies for the years 1899 - 1947-48. In that letter, for those years where data was unavailable (as for years 1885-97), we assumed an annual gas production quantity equal to the first year's reported data (1898). For other years where data was missing (1899, 1915, 1939) a gas production volume was interpolated from previous and subsequent years' data.

To refine these calculations, we reviewed the further documentation you provided. Documents reviewed included Brown's Directories for all years between 1899 and 1947-48 (corresponding to production years 1898 - 1946), and LSDP annual operating and financial reports to the Railroad Commission of Wisconsin (for several years prior to 1923).

The results of these reviews are summarized on the attached table. Unlike the previous study described in the March 2 letter, gas production data from Brown's was available for 1899 and 1939. Additionally, data was available for production years 1908, 1921, 1922, 1931-1933, 1938-1939, and 1944 which was not previously reviewed. For comparison purposes, annual records for each registry are shown. Note that for each entry where both records are available, the values are either identical



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or nearly so. The only year for which values differ significantly between the two is for 1908, which is the first year for which LSDP data are available. For this year, Brown's reports the same value as that for the previous year. Note that this same result occurs in 1932 and 1938; the Brown's data in those years are the same as the previous year's reported value. Consequently, LSDP values in lieu of Brown's values were used for those years.

This more complete database yields a total gas production quantity of 1,392,496.70 mcf over the life of the MGP. This value compares to a total volume of 1,371,968 mcf reported in the March 2 letter, an increase of 20,528.7 mcf, or less than 1.5 percent of the value computed in the March 2 letter.

Sales Versus Production Quantities

The March 2 letter was prompted by a WDNR letter of February 20 (and amendment of February 24) which computed a total quantity of 1,562,961 mcf. This was based on one year of gas production data in Brown's (1935), as well as one year of earlier NSP data (Dames & Moore, March 1995), that reported several years of gas sales versus gas production quantities. The WDNR's total gas production volume assumed a 13 percent differential between gas production and gas sales data for all years as reported in the March 1995 report. This difference was based on the 1935 Brown's information. Although gas sales data were used for some of these years in the earlier report, the Department's estimate was flawed because this assumption was applied to the entire plant operating life. This revised estimate of 1,392,496.70 mcf is considerably more accurate because it is based on contemporaneously reported production data.

II. Tar Production

Background

The above total gas production volume estimate is important because of the bearing it has on the total tar quantity produced over the operating life of the MGP. Our March 2 letter provided a total tar production value of 602,294 gallons during the plant life, based upon an average ratio of 0.439 gallons tar/mcf of gas produced. This ratio was arrived at by comparing the total gas produced against the total tar produced for those years (1939, 1941 and 1944) for which both values were recorded. Our recent research did not yield additional tar production records. Consequently, we evaluated the gas production processes used at the MGP in conjunction with published tar-to-gas ratio data references to validate our earlier tar production estimates.



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Gas Production Processes

The gas production process utilized at the MGP is listed in the Brown's Directories, and is shown in the second column of the attached table. The Brown's Directories identify changes in the plant's gas production processes that appear to be variants on the Lowe process, first reported from 1898 to 1901. For example, from 1902 to 1908, the method listed is *Moses(water)*, and then from 1909 to 1911 is *Lowe(Moses)*. From 1912 to 1916, the method named is *Oil*, followed by *Oil and Coal* through 1920, where in turn the method is listed as *Water Gas* through 1946.

Our March 1995 report presumed that the plant manufactured gas using a carbonization process until 1920, when the process was changed to gasification. Carbonization was the conventional coal gas process, and gasification resulted in carbureted water-gas (CWG). Based on what has been recently reviewed, we now believe the plant operated as a CWG plant during its entire life.

As shown, several process changes occurred at the Ashland MGP after production methods first were reported in 1898. Nothing specific about the first reported method (Lowe) is known; however, USEPA¹ (1988) identifies Lowe as the inventor of CWG in 1875. It is also important to note that when LSDP operating report data for years after 1908 was recently reviewed, the manufactured gas process reported is water gas, not coal gas. LSDP operating reports show standard ledger sheets with coal gas input values blank, whereas water gas values for all years except 1917 are the same as those entered for total gas production values. This indicates that for all years except 1917, water gas was produced.²

¹ U.S. Production of Manufactured Gases: Assessment of Past Disposal Practices, USEPA, Research Triangle Institute, Research Triangle Park, NC, 1988.

² The one exception is for 1917, when a small portion of the total gas production stream that year (less than 15 percent) is reported as coal gas. However, subsequent years again indicate only water gas production. Note that from 1913 through 1916 Brown's reported that the Ashland MGP "will construct coal gas plant of 14,000,000 c.f. (i.e., 14,000 mcf) capacity per annum." From 1917 on, there is no mention of this coal gas operation in the Brown's Directories. (Note also that Brown's reported only gas sales data from 1909 through 1920. Because LSDP data was available for this period, this information was utilized in our estimates.



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The Carbureted Water Gas Process

USEPA indicates that two materials were needed for CWG production: solid carbon and liquid hydrocarbon (see USEPA, page 34). Through World War One, the common source for the solid carbon was anthracite (coal) or coke from bituminous (coal). After WWI, process changes prompted by increasing anthracite costs enabled some plants to burn bituminous directly. (All plants did not convert, however, because many had coke production ovens on site.) USEPA reported that the preferred source of the liquid hydrocarbon was naphtha, a light-weight crude fraction. However, more plants used a heavier fraction called gas-oil after 1895. The increased demand for gasoline after 1930 (a fraction of gas-oil) prompted the MGP industry to convert to yet heavier fuels (i.e., heavy fuel oil). USEPA (1988, pg. 125) indicates that these conversions to heavy fuel oils "were better absorbed by larger plants," since tar quantities increased by as much as 25 percent. Conversion to heavy oils was resisted by smaller plants principally because of operating cost. Based on the above and the tar generation data reviewed, it is our conclusion that for the Ashland plant employed the oil-gas CWG process throughout its operational life.

Tar Production at the Ashland Plant

For the three years for which tar production is reported, Brown's also reports the quantity of gas oil used and the quantity of bituminous used as a water gas generator. USEPA reports (Table 35) that for oil gas feedstocks in CWG systems, the quantity of tar produced per gallon of oil feedstock used yielded ratios of 0.16 to 0.18. For these three years the actual ratios based on reported data were 0.20 for 1939, 0.13 for 1941, and 0.14 for 1944, for an average of 0.155. This falls within the range given in the USEPA report. (Table 35 presents a tar to oil feedstock ratio of 0.23 for heavy fuel oil CWG systems, with a tar generation estimate of 800-1,000 gallons produced for each mcf $\times 10^3$ gas produced. Note that this tar to feedstock ratio is too high for any of the years for which data are reported for the Ashland plant, indicating heavy fuel oil was not used.)

Table 35 in the USEPA report also indicates that for these CWG oil gas processes, from 470-640 gallons of tar were produced for each mcf $\times 10^3$ gas produced (or 0.470 - 0.640 per mcf as we reported in the March 2 letter). This is a separate ratio from that provided for the tar to feedstock ratio, and compares to the 0.439 ratio we used in the March 2 letter. The tar generation values presented in this letter and shown on the attached table for each year of operation assume this same 0.439 ratio.



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Based on the foregoing, we conclude:

- The MGP originally implemented and then maintained with some variation a CWG process, and oil gas was the predominant liquid feedstock throughout the entire plant life.
- Coal gas (as manufactured in the carbonization process) was never a major product, manufactured briefly during 1917, and constituted only 15 percent of that year's production.
- The tar production ratios the Department used in its February 20 and 24 letters for the time periods before and after 1918 are completely erroneous.³
- Applying the 0.439 ratio to the "revised" total gas production quantity yields a total of 611,306 gallons of tar produced during the plant lifetime. This compares to the 602,294 gallons tar produced described in the March 2 letter, an increase of only 1.5 percent.

A final point on the assumed CWG process at the Ashland site during its operating life needs to be mentioned. Although only a few samples have been analyzed, cyanides have not been detected at the site. USEPA reports that CWG tars "contain many of the compounds present in coal tar, but they contain no tar acids (phenolics) and only traces of coal nitrogen compounds...(consequently) very small amounts of ammonia and cyanide appeared in the gas from (CWG) operations, and this is reflected by low concentrations of these compounds in byproducts." This is further support for our conclusion that the Ashland plant operated as a CWG plant.

III. Product Estimates Present in Bay Sediments and the Copper Falls Aquifer

Product Present in the Bay Sediments

The March 2 letter provided an estimate of more than 2,000,000 gallons of residual tar product present in the sediments, based upon the data and analysis of the sediments provided by SEH in its July 1996 report. That data indicated that the most contaminated area of sediment covered an area of about 7 acres at an average depth of six feet. To compute this quantity, a porosity value of 0.3 (volume of void/total volume) was assumed. Also, high levels of VOC and PAH contamination (concentrations as high as 1000 mg/kg) indicated the presence of pure product. Accordingly, we assumed that 50 percent of the available void space was occupied by residual product, resulting in

³ The Department assumed coal carbonization-horizontal gas retort production methods prior to 1918, and used an average tar production ratio of 0.955; for the period after 1918, they assumed an oil gas CWG process, and used 0.555. These values were taken as averages for these methods presented in the USEPA Table 35 described above, and are not based on actual production records.



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a quantity in excess of 2,000,000 gallons. SEH calculated a range of 39,000 to 583,000 gallons of tar present in the bay sediments and soils at Kreher Park. A critique of these estimates is attached to this letter.

Product Present in the Copper Falls Aquifer

The final estimate presented here of tar in the environment is the product volume currently present in the Copper Falls aquifer. The quantities needed to determine this mass are the thickness of dense non-aqueous phase liquids (DNAPL) measured in wells screened in the Copper Falls, and an estimate of the aerial extent of the DNAPL mass. In our Remedial Action Plan for the Lower Copper Falls Aquifer (Dames & Moore, April 1998), we described an elliptical DNAPL plume approximately 350 feet by 170 feet in plan view. The greatest thicknesses of DNAPL has been measured in well 13B on St. Claire St., at thicknesses varying from 13.5 to 16.5 feet. The intermediate well 13A in the same well nest has yielded approximately 2 feet of DNAPL. A well on the leading edge of the plume (7A) has yielded samples with high contaminant levels, but not at levels to indicate DNAPL (DNAPL has not been measured in this well). The other wells screened in the Copper Falls Aquifer are beyond the flanks of the plume.

The release point of the coal tar product that formed the plume is likely in the area of the extraction well EW-1. At this location, the plume is thickest (near 13B), but likely thins to the north in the direction of groundwater flow. Based upon this limited data, an approximate thickness of two feet is assumed for the DNAPL area shown in the RAP. The approximate area of the ellipse is 50,000 square feet. This translates to a volume of 100,000 cubic feet. At a porosity of 0.25 for the Copper Falls, the volume of DNAPL present is 25,000 cubic feet, or 187,000 gallons. Recognize that this estimate has a potentially high error margin because of the limited data.

Further Product Adjustments

For the three years for which LSDP operating data on tar generation is available (1939, 1941 and 1944), the same records indicate that 19,034, 10,000 and 17,814 gallons of tar, respectively, were sold. Additionally, approximately 7,000 gallons of tar product residual from the former MGP were disposed in 1993 when a concrete tar reservoir was excavated from the NSP property and disposed off site. This totals nearly 54,000 gallons. Assuming that the Copper Falls estimates above are off by 25 percent (i.e., only a total of 140,000 gallons are present), nearly 200,000 gallons, or approximately one-third of the 611,000 gallons generated during the life of the MGP, are not present in the sediments. The remaining 400,000 gallons fall significantly below the 2,000,000 gallons previously shown present in the sediments. For these comparisons, no other reduction in tar volume



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is assumed for any unreported tar sold, or burned as boiler fuel⁴, since no other records exist. The reported tar volume sold (46,848 gallons) constitutes about 7.5 percent of the total tar production volume. This compares to the 1984 Radian study⁵ which reported that, on average, 76 percent of all tar generated from MGPs nationwide was sold as a by-product.

IV. Conclusion

The calculations presented in this letter confirm that contamination in the sediments cannot be restricted to releases of tar from the MGP. As described in previous documents, much of the plant's tar was reburned as boiler fuel and sold/recycled as a product. The total tar production of approximately 611,000 gallons during the MGP's lifetime is not sufficiently large to account for the volume of residual tar present in the environment. The volumes currently present in the offshore sediments and soils at Kreher Park are too large, and the concentrations too high to have originated solely from the former gas plant.

This summarizes the results. Please call with any questions.

Sincerely,

DAMES & MOORE

David P. Trainor
Principal

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⁴ USEPA (1988) reports that "the principal use of CWG tars was as a fuel. The CWG tars could be burned in the plant boilers, replacing the coal that would normally have to be consumed. (These) tars...would be burned if they could not be sold for a price that exceeded the fuel value of the tars."

⁵ *Survey of Tar Waste Disposal and Locations of Town Gas Producers*, Radian Corporation, Austin, TX., 1984

LSDP/NSP MGP GAS AND TAR PRODUCTION DATA				
YEAR	GAS PROCESS (REPORTED IN BROWN'S)	ANNUAL PRODUCTION MCF (LSDP & BROWN'S)	TAR PRODUCTION (GALS.)	NOTES
1885	UNKNOWN	(6,000.00)	(2,634)	(1)
1886	UNKNOWN	(6,000.00)	(2,634)	
1887	UNKNOWN	(6,000.00)	(2,634)	
1888	UNKNOWN	(6,000.00)	(2,634)	
1889	UNKNOWN	(6,000.00)	(2,634)	
1890	UNKNOWN	(6,000.00)	(2,634)	
1891	UNKNOWN	(6,000.00)	(2,634)	
1892	UNKNOWN	(6,000.00)	(2,634)	
1893	UNKNOWN	(6,000.00)	(2,634)	
1894	UNKNOWN	(6,000.00)	(2,634)	
1895	UNKNOWN	(6,000.00)	(2,634)	
1896	UNKNOWN	(6,000.00)	(2,634)	
1897	UNKNOWN	(6,000.00)	(2,634)	
1898	LOWE	6,000.00	2,634	(2)
1899	LOWE	7,800.00	3,424	
1900	LOWE	9,000.00	3,951	
1901	LOWE	10,000.00	4,390	
1902	MOSES	11,000.00	4,829	(3)
1903	MOSES	12,000.00	5,268	
1904	MOSES	13,000.00	5,707	
1905	MOSES	14,000.00	6,146	
1906	MOSES	15,000.00	6,585	
1907	MOSES	19,000.00	8,341	
1908	MOSES	20,186.90	8,862	(4)
1909	LOWE(MOSES)	18,978.14	8,331	
1910	LOWE(MOSES)	19,081.86	8,377	
1911	LOWE(MOSES)	15,527.40	6,817	
1912	OIL	16,535.08	7,259	
1913	OIL	16,637.13	7,304	
1914	OIL	16,000.00	7,024	
1915	OIL	(17,461)	(7,744)	(5)
1916	OIL	18,921.55	8,307	
1917	OIL AND COAL	18,794.54	8,251	(6)
1918	OIL AND COAL	17,228.00	7,563	
1919	OIL AND COAL	17,983.72	7,895	(7)
1920	OIL AND COAL	19,196.40	8,427	(8)
1921	WATER GAS	21,852.00	9,593	
1922	WATER GAS	21,698.14	9,525	(9)
1923	WATER GAS	21,698.54	9,526	
1924	WATER GAS	21,698.54	9,526	

LSDP/NSP MGP GAS AND TAR PRODUCTION DATA				
1925	WATER GAS	27,978.60	12.283	
1926	WATER GAS	30,498.08	13,389	
1927	WATER GAS	32,009.30	14,052	
1928	WATER GAS	28,329.00	12,436	
1929	WATER GAS	39,534.00	17,355	
1930	WATER GAS	40,442.00	17,754	
1931	WATER GAS	37,614.00	16,513	(10)
1932	WATER GAS	36,220.00	15,901	
1933	WATER GAS	33,988.60	14,921	
1934	WATER GAS	34,262.40	15,041	
1935	WATER GAS	37,023.60	16,253	
1936	WATER GAS	42,922.80	18,843	
1937	WATER GAS	42,922.80	18,843	
1938	WATER GAS	45,909.00	20,154	(11)
1939	WATER GAS	45,925.00	25,000	(12)
1940	WATER GAS	49,925.00	21,917	
1941	WATER GAS	49,925.00	16,500	
1942	WATER GAS	38,925.00	17,088	
1943	WATER GAS	36,932.20	16,213	
1944	WATER GAS	39,264.40	17,814	
1945	WATER GAS	42,037.80	18,455	
1946	WATER GAS	46,629.16	20,470	
TOTAL GAS PRODUCTION		1,392,496.7 MCF		
TOTAL TAR PRODUCTION		611,306 Gals.	(13)	

- (1) Brown's directories unavailable for years 1885-1897. Annual gas production quantities are assumed to equal the first year reported (1898), and are shown with () as an assumed quantity. LSDP gas quantity operating records are shown in bold, when available. For those years where both Brown's and LSDP production levels are reported, LSDP records are shown and used in quantity calculations.
- (2) Actual gas product type (e.g., coal gas, water gas, Pacific Coast oil gas specified in USEPA report (1988)) for years 1885-1898 is unknown. Manufactured gas process reported in 1899 is referred to as *Lowe* in Brown's. For purposes of tar production, assume the plant operated as a manufacturer of carbureted water gas using conventional oil gas feedstock since 1885 with minor process augmentation (see text).
- (3) Manufactured gas process from 1902-1908 reported in Brown's as *Moses(water)*. Assume process is a variation of original Lowe-water gas method.
- (4) LSDP operating records for years 1908-1918 are reported for fiscal year July 1-June 30. For purposes of these production estimates, LSDP production values for these years represent the previous calendar year.
- (5) No LSDP or Brown's data available for 1915. Assume interpolated production value of 17,461.0 mcf as in March 2, 1998 Dames & Moore letter to Jamie Dunn.
- (6) Production value shown is the total of 16,069.41 mcf water gas and 2,725.13 mcf coal gas reported by LSDP. Subsequent years' data reported by LSDP are restricted to water gas only, although Brown's reports *Oil and Coal* 1917-1920.
- (7) Only six months of data (July-December) reported by LSDP. Figure shown is double the reported value.
- (8) LSDP reported gas production levels correspond to calendar years 1920-1922.
- (9) LSDP gas production levels correspond to data summed from two separate operating reports (May 31, 1922 and December 31, 1922).
- (10) LSDP gas production levels reported in LSDP Annual reports in 1932, 1933.
- (11) LSDP gas and tar production data obtained from reprints of production and material usage ledgers provided by NSP for years 1938, 1939, 1941 and 1944.
- (12) Actual tar production quantities reported are shown in bold (1939, 1941, 1944).
- (13) Total tar generation quantity shown is ratio of gallon of tar produced per mcf of gas generated times total gas production quantity $((0.439) \times (1,392,496.7))$.

CRITIQUE OF SEH TAR QUANTITY ESTIMATES

In a draft spreadsheet submitted to the WDNR SEH provided (see attached table) an estimate of residual product based upon the concentration of benzo(a)pyrene (BaP) measured in sediments and in soils at Kreher Park. SEH subdivided the subject area into several zones, including two areas each within the unsaturated and saturated zones at Kreher Park, and three areas of sediments. Using BaP as an indicator parameter, SEH computed a total residual product quantity present in the entire affected Kreher Park and sediment areas from about 39,000 to 580,000 gallons. As described in a meeting between NSP and SEH with the WDNR on March 26, 1998, SEH chose BaP because of its low solubility, low volatility and recalcitrance compared to other constituents in coal tar.

Following the SEH spreadsheet for the "Hot Contaminated Sediments" zone, a range for the Original Tar Deposit of from 5,849 gallons to 87,730 gallons of tar is presented. This assumes an area of 410,000 square feet at a uniform depth of four feet. To compute these values, two numbers must be known: (1) the percent constituent mass of BaP in coal tar, and (2) the density of coal tar. Values for BaP given in the literature¹ range from 0.175 percent up to 3.0 percent of the coal tar mass. Values for the specific gravity of CWG tars provided by USEPA range from 1.06 to 1.125. Accordingly, this information was used to duplicate SEH's calculations.

The SEH July 1996 Sediment Investigation report shows BaP ranging from mostly non-detect levels up to 49 mg/kg (ppm). An average value of 1 mg/kg is selected for this exercise.

The volume of contaminated sediments is (as shown on the SEH spreadsheet)

$$4(410,000) = 1,640,000 \text{ cft}$$

A typical value assumed for the dry density of the sediments is 90 lbs/cft

The total mass of the affected sediments is

$$90(1,640,000) = 1.48 \times 10^8 \text{ lbs} = 3.2 \times 10^8 \text{ kgs}$$

The total mass of BaP in the sediments is

$$1 \text{ mg/kg}(3.2 \times 10^8) = 3.2 \times 10^8 \text{ mg}$$

Based on the literature, assume BaP constitutes an average of 1 percent of the total coal tar mass. Therefore the mass of coal tar originally deposited is:

$$(3.2 \times 10^8)/(0.01) = 3.2 \times 10^{10} \text{ mg}$$

¹ *Handbook on Manufactured Gas Plant Sites*, Utility Solid Waste Activities Group, prepared by Environmental Research & Technology, Inc., Pittsburgh, 1984

Using the specific gravity of coal tar at 1.1 (110 mg/ml), this mass can be converted to an original volume:

$$(3.2 \times 10^{10} \text{ mg}) / (110 \text{ mg/ml})(1000 \text{ ml/l}) = 2.9 \times 10^5 \text{ l}$$
$$= 76,858 \text{ gallons}$$

This value is equivalent to the high value (87,730 gals) from SEH's range for this affected zone. Note that average values were used for this calculation, specifically for the percentage of BaP in coal tar and the measured BaP concentration in sediment. Also, note that by lowering the percentage of BaP in coal tar to 0.2 percent, and increasing the average BaP to 5 mg/kg, the computed coal tar mass increases by 10 times to 768,580 gallons.

The weaknesses in the assumptions for this BaP analysis are (1) the range of percentages the literature provides for BaP in coal tar and how it affects the outcome, and (2) the absence of positive detections for BaP in the samples measured. Comparing the occurrence of BaP in the samples to those of other PAHs shows that naphthalene was found more often, and constituted a greater portion of the entire PAH compound suite. Based upon a review of the SEH report data, naphthalene was found more often at concentration levels from low ppm ranges to as high as 600 ppm. The specific gravity of naphthalene is about the same as water (1 s.g. unit, or 1 gm/ml). Using a value of 50 mg/kg as a representative naphthalene level in the most contaminated sediments (an average of 71 mg/l has been computed for all detections in samples collected south of 2600 N, the most contaminated area), the volume of naphthalene present in the sediments can be calculated as follows:

$$50 \text{ mg/kg}(3.2 \times 10^8 \text{ kg}) = 1.6 \times 10^{10} \text{ mg}$$

Using a density of 1 gm/ml (100 mg/ml) yields the following:

$$(1.6 \times 10^{10} \text{ mg}) / 100 \text{ mg/ml} = 1.6 \times 10^8 \text{ ml} = 160,000 \text{ l}$$
$$= 42,270 \text{ gallons}$$

The coal tar present in sediments at the Ashland site was deposited decades ago, and degradation of naphthalene has occurred in the intervening time. Additionally, nothing is known about coal tar emulsions in the waste products from the MGP, and how they were treated. The literature shows that naphthalene comprises from 5 to 15 percent of coal tar (one reference stated 10.9 percent for oil gas tars¹). Regardless, assuming a 10 percent naphthalene fraction of the coal tar yields a minimum original coal tar deposit of nearly 500,000 gallons. Note again that this value is sensitive to both the concentration and the constituent percentage used to determine the contaminated sediment mass. Consequently, these variations make this method of determining contaminant mass present indeterminate.

¹ *Handbook on Manufactured Gas Plant Sites*, Utility Solid Waste Activities Group, prepared by Environmental Research & Technology, Inc., Pittsburgh, 1984

DRAFT 3/26/98 MJB

DRAFT 3/26/98 MJB

**Ashland Lakefront Feasibility Study
Volume Estimates:**

	Area (sft)	Volume (cft)	Approx Mixed Fill (cft)	Approx Wood Waste (cft)	Pore Water (gallons)	low range Original* Tar Deposit (gallons)	high range Original* ar Deposit (gallons)
Contaminated Vadose Zone	18,000	36,000	36,000	0	0	972	14,573
Hot Contaminated Vadose Zone	400,000	1,200,000	1,200,000	0	0	2,313	34,699
Hot Contaminated Saturated Zone:	40,000	320,000	64,000	256,000	957,440	18,300	274,506
Contaminated Saturated Zone:	378,000	3,024,000	604,800	2,419,200	9,047,808	5,829	87,441
Hot Contaminated Sediments (0-4)	410,000	1,640,000	492,000	1,148,000	4,906,880	5,849	87,730
Medium Contaminated Sediments (4-8)	30,000	120,000	120,000	0	359,040	4,395	65,928
Lightly Contaminated Seds (4-8)	380,000	1,520,000	1,520,000	0	4,547,840	1,172	17,581
Total:						38,831	582,458

DRAFT 3/26/98 MJB

DRAFT 3/26/98 MJB

*Note: Tar deposit based upon mass of Benzo(a)Pyrene present in subsurface. BaP selected because of its low solubility, low volatility, and high biorecalcitrance.

Tar range based upon varying reported percentages of BaP in coal tar and range of mass calc for BaP.

11-01-98 16:00

From MICHAEL, BEST & FRIEDRICH

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T-043 P 02/02 F-608

**VOLUMETRIC ESTIMATES OF DNAPL (COAL TAR)
IN THE ENVIRONMENT AND
TOTAL TAR PRODUCTION FROM
THE NSP FORMER MGP FACILITY IN ASHLAND, WISCONSIN**

By

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November 1, 2000

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NSPW021005

EXECUTIVE SUMMARY

The Gas Technology Institute (GTI) has completed volumetric estimations of dense, non-aqueous phase liquid (DNAPL), defined as tar, for Northern States Power (NSP). The volumetric estimations pertain to: (1) the quantity of tar in the environment in four defined areas of concern in the city of Ashland, Wisconsin, and, to (2) the total tar production, associated with manufactured gas plant (MGP) operations at the NSP former MGP facility.

GTI has estimated the volume of tar in the areas of the Ravine Fill (OU-1), the Copper Falls aquifer (OU-2), impacted sediments associated with a portion of the Chequamegon Bay of Lake Superior (known as the Bay Area Sediments) and Kreher Park. These DNAPL (tar) estimates were based upon the reports, letters and documents, assumptions concerning the geology, lithology and contaminant extent cited herein and appropriate mathematical equations. These estimates are, in GTI's option, the most accurate in-place volume totals attainable, given the current status of available information and the presumed assumptions made. Total volumes of DNAPL (tar) in each area are as follows: Ravine Fill area: 48,100 gallons (gal.), Copper Falls aquifer: 167,400 gal., Bay Area Sediments : 1,705,400 gal., Kreher Park: 9,700 gal. The sum total of all areas amounts to 1,930,600 gal. of DNAPL (tar).

GTI has estimated the volume of DNAPL (tar) associated with MGP operations at the Ashland former MGP facility. The NSP former MGP operated as a carburetted water gas (CWG) process. GTI has described typical operations at the facility, based upon published documentation and comprehensive operations investigation. Detailed examination of the CWG process, including all feedstocks and wastestreams, was performed. Volumetric estimates for the MGP operation was based upon documented facts, published descriptions of process operations, sound engineering standards and assumptions and appropriate mathematical equations cited herein. These estimates are, in GTI's opinion, the most accurate production volume totals attainable, given the current status of available information and the presumed assumptions made. The total volume of DNAPL (tar) produced by the NSP former MGP facility is estimated to be 666,100 gallons.

There is nearly a three-fold increase in DNAPL (tar) found in the environment in the examined areas than potentially produced by the former MGP facility during its operational lifetime.

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1.0 INTRODUCTION

1.1 Purpose

The Gas Technology Institute (GTI) was retained by Northern States Power (NSP) to perform volumetric calculations. These calculations pertain: (1) to quantities of dense, non-aqueous phase liquid (DNAPL), defined as tar, in soils and sediments associated with the NSP former manufactured gas plant (MGP) site and Ashland Lakefront Site, and (2) to DNAPL (tar) production associated with operations at the NSP former MGP in Ashland, Wisconsin. The purpose of this report is two-fold: 1) to present estimations of the quantity of DNAPL (coal tar) in the environment in Ashland, WI, by defined area, and, 2) to present an estimation of DNAPL (tar, as well as other by-products) quantities produced in total through MGP operations at the NSP facility. In all cases, volumetric estimations were arrived at by use of published documents and records, known facts, supporting reports, basic assumptions and scientific calculations. GTI facilities possess a library containing one of the world's largest collections of information on natural gas technology, including more than 33,000 texts and bound journals, over 500 periodical and newsletter subscriptions, 100,000 technical reports, 5,000 patents, 1,000 theses and 130,000 microfiche documents. The GTI library serves as an important source of reference material to support the volumetric calculations (Appendix A).

Four areas of environmental concern have been defined in the city of Ashland, WI. These include the Ravine Fill area or Operable Unit-1 (OU-1), the Copper Falls aquifer (OU-2), the Bay Area Sediments and Kreher Park. In order to calculate the volumes of DNAPL (tar) associated with each of these areas, previously prepared reports, letters and documents were reviewed, assumptions concerning the geology, lithology and contaminant extent were made and appropriate mathematical equations were selected.

In order to prepare the volumetric estimate of total coal tar and other waste products produced by the former MGP, typical operations at the facility are described, based upon published documentation and comprehensive operations examination. The NSP former MGP operated as a carburetted water gas (CWG) process. Therefore, examination of the process and all feedstocks

and wastestreams was performed. Volumetric estimates for the MGP operation was based upon documented facts, published descriptions of process operations, sound engineering standards and assumptions and appropriate mathematical equations.

2.1 Background Information

The NSP former MGP site and the Ashland Lakefront Property are located in Ashland, Wisconsin.

The NSP former MGP facility is a site approximately 1,000 feet southeast of the shore of Chequamegon Bay of Lake Superior, at 301 Lake Shore Drive East. The former MGP operated predominantly as a manufacturer of water gas and carburetted water gas between 1885 and 1947. Coal tars and other residuals were produced as a result of the gas manufacturing operations. During the early tenure of the MGP, a ravine trended north across the site from Lake Shore Drive and opened onto the Lakefront at the bluff overlooking the bay. By 1909, the entire ravine was filled. Previous investigations of the NSP site showed that a DNAPL “pool” of coal tar by-product, varying from one to two feet in thickness, was present at the base of the ravine from south of the service facility north to the area of St. Claire Street. Further north, as the ravine deepens, no DNAPL was measured. However, a separate DNAPL pool varying in thickness up to five feet is present in the area around the seep¹.

The Copper Falls Aquifer is an artesian aquifer below the former MGP site area. The Copper Falls aquifer was most likely affected as coal tar from the former MGP migrated through a breach in the Miller Creek aquitard and traveled downward against the inherent upward gradients. The regional direction of groundwater flow in the Copper Falls is northward. The horizontal extent of contamination in this deep aquifer is found in an area north and west from the vertical DNAPL column beyond the NSP property. The horizontal plume decreases in width and breadth with depth in the Copper Falls. This configuration indicated that the largest areal extent of the plume, immediately below the Miller Creek, results from continuous upward flow on the contaminant source².

The Ashland Lakefront Property consists of two areas of environmental concern. Sediments associated with the Chequamegon Bay of Lake Superior are affected by tar-like DNAPLs. The Chequamegon Bay includes two areas extending approximately 1,700 feet north of the Ashland Lakefront Property and 300 feet west of the Ashland Lakefront Property. A boat launching area protected by two jetties (Prentice Avenue Boat Ramp) is present on the east side of the area. A marina protected by a jetty and breakwater (Ellis Avenue Marina) is present on the west side of the site. The small bay is present between the marina and the boat launching area. The shoreline in this small bay forms a small peninsula in the approximate center of the bay³.

Kreher Park was created in the late 1800's and early 1900's by placement of various fill materials into Chequamegon Bay, extending the shoreline approximately 400 feet to the north of its original location. The fill materials consisted largely of wood chips, pieces and sawdust mixed with soil. From the late 1800's until 1936, the site was owned by various lumber companies³.

Detailed site investigations, as well as numerous other field investigations approved by the Wisconsin Department of Natural Resources (WDNR), have been performed for each affected areas.

2.0 ESTIMATED TAR IN THE ENVIRONMENT

Four areas located within the town of Ashland, Wisconsin have been identified as contaminated with DNAPLs (coal tar compounds).

Various investigations have revealed that tar has impacted two locations or “Operable Units” (OU’s) at or below the site of the NSP former MGP facility on Lake Shore Drive East. The two locations, the Ravine Fill area and the Copper Falls aquifer, have been termed OU-1 and OU-2, respectively, due to their distinct geologic conditions which may impact and vary potential remedial response actions for each unit. Fingerprinting testing performed by GTI has clearly revealed that the tar associated with OU-1 and OU-2 is carburetted water gas tar, a consequence of operations performed by the NSP former MGP. Testing of samples from both locations also indicated that the tar is likely from the same source⁴.

Investigations have also revealed that another location, not directly or indirectly connected to the former MGP site, has been impacted by DNAPLs. This location is on the shore of Chequamegon Bay, between Prentice Avenue and Ellis Avenue in Ashland, WI., and has been termed the “Ashland Lakefront Property.” The Ashland Lakefront Property has been further divided into two areas of concern, a portion of the Chequamegon Bay of Lake Superior and Kreher Park. Fingerprinting testing performed by GTI has clearly revealed that the tar associated with the two areas of the Ashland Lakefront Property is also a MGP-type tar, but distinctly different from the carburetted water gas tar found in areas OU-1 and OU-2. Additionally, the DNAPL (tar) sample from the Kreher Park area is co-mingled with a substantial fraction of middle weight petroleum distillate. This tar mixture is typical of wood treatment formulations used during the late 1800’s until the mid-1900’s^{4,5}.

GTI has performed volumetric estimates for total quantities of DNAPL (tar) associated the Ravine Fill area (OU-1), the Copper Falls aquifer (OU-2), a portion of the Chequamegon Bay of Lake Superior (the Bay Area Sediments) and Kreher Park. The volumetric estimates have been based upon documents prepared by the WDNR and its subcontractor (Short Elliott Hendrickson, Inc., SEH) and Dames & Moore (D&M), for NSP, and basic assumptions prepared, reviewed and discussed by all reviewing parties involved for each area. The data input, assumptions,

calculations and totals for volumetric estimates of DNAPL (tar) associated with each area are detailed herein.

2.1 Ravine Fill (OU-1)

DATA INPUT

The following documents served as reference for the calculation of DNAPL (tar) quantity associated with the Ravine Fill area:

- Letter to IGT from D&M, “RE: Tar Volumetric Calculations, Ravine Fill Operable Unit, NSP Ashland – former MGP”, January 20, 2000 (Appendix B).
- Fax Letter to IGT from D&M, “Subject: NSP-Ashland”, January 25, 2000 (Appendix B).
- *Supplemental Facility Site Investigation Report and Remedial Action Options Report for the NSP Site*, D&M, March, 1999.

The data/information presented in the above referenced documents included:

- A map showing the “OU1-Total VOCs Isoconcentration, Lateral Extent of DNAPL”;
- Well numbers, distance between the wells, and plume width at the well locations;
- A table summarizing the free phase hydrocarbon thickness observed and measured on tape in various wells in or near the ravine.

ASSUMPTIONS

The following assumptions have been made for the purposes of calculating DNAPL (tar) material in OU-1:

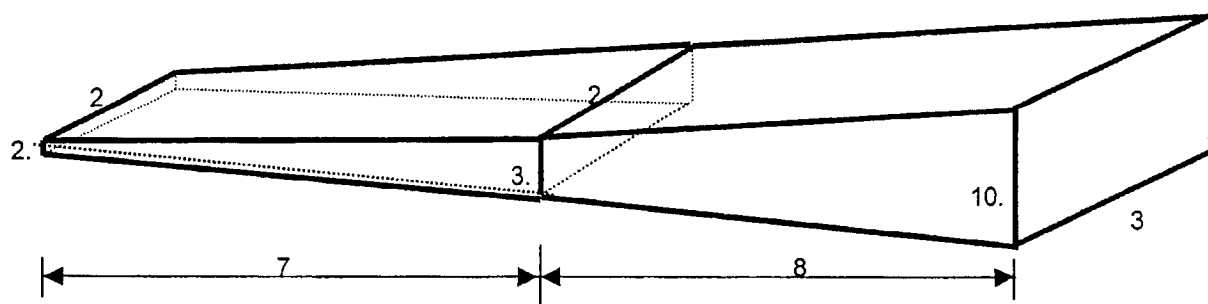
- Lateral extent of the tar and plume lengths and widths from the wells MW-15, MW-9 and TW-13 were used in the calculations.

- The highest tar thickness values measured on tape from each location from all sampling events were used in the calculations.
- A porosity value of 0.3 was used in the calculations.
- Cross sectional areas at each of the three well locations were used in the calculations.

CALCULATION

WELL NUMBER	TAR THICKNESS [FEET]	PLUME WIDTH [FEET]	LENGTH OF PLUME BETWEEN WELLS [FEET]	CROSS SECTIONAL AREA OF PLUME [FEET ²]	AVERAGE CROSS SECTIONAL AREA OF PLUME [FEET ²]	VOLUME OF TAR BETWEEN WELLS (USE POROSITY=0.3)	
						[FEET ³]	[GALLONS]
MW-15	10.60	30	-	318			
			87		195	5,090	38,069
MW-9	3.60	20		72			
			77		58	1,340	10,022
TW-13	2.20	20		44			
						6,429	48,091

Data Source: Dames & Moore Letter to IGT, dated January 20, 2000



NOT TO SCALE

Dimensions Used for Ravine Fill DNAPL Volume Estimate

TOTAL

Using the information and assumptions stated above, a DNAPL (tar) volume of approximately **48,100** gallons was calculated for the Ravine Fill area (OU-1).

2.2 Copper Falls Aquifer (OU-2)

DATA INPUT

The following documents served as reference for the calculation of DNAPL (tar) quantity associated with the Copper Falls aquifer:

- *Appendix D, Remedial Action Options Feasibility Study - Final Report – for the Ashland Lakefront Site*, D&M, March, 1999.
- *Remedial Action Plan - Lower Copper Falls Aquifer for NSP*, D&M, April, 1998.
- *Supplemental Facility Site Investigation and Remedial Action Options Evaluation Report for the Northern States Power Facility*, D&M, 1999.
- Letter to IGT from D&M, “RE: Tar Volumetric Calculations, Ravine Fill Operable Unit, NSP Ashland – former MGP”, January 20, 2000 (Appendix B).

The data/information presented/referenced in these reports include:

- Estimated DNAPL plume dimensions in this area
- Thickness values of DNAPL in the monitoring wells

ASSUMPTIONS

The following assumptions have been made for the purposes of calculating DNAPL (tar) material in OU-2:

- A frustum of right circular cone with upper and lower circular areas of plume used in the calculations.

- Elliptical DNAPL plume dimensions in this area of 350 feet x 170 feet was used in the calculation.
- A thickness of DNAPL = 27.6 ft (greatest measured tape thickness in MW-13) was used in the calculation.
- A soil porosity of 0.25 was used in the calculation.

CALCULATIONS

The volume of a frustum of right circular cone is represented by the equation:

$$V = (1/3) (\pi) (H) [R_1^2 + R_2^2 + (R_1)(R_2)]$$

where:

R_1 = Approximate radius of plume area in the upper copper falls aquifer = 27 ft

R_2 = Approximate radius of plume area in the lower copper falls aquifer = 37 ft

H = Height = 27.6 ft

Therefore:

$$V = (1/3) (\pi) (27.6 \text{ ft}) [27^2 + 37^2 + (27)(37)] = 89,511.5 \text{ ft}^3$$

The volume of DNAPL is defined by the equation:

$$V_e = (V) (n)$$

$$V_e = (89,511.5)(0.25) = 22,377.88 \text{ ft}^3$$

$$22,377.88 \text{ ft}^3 = 167,387 \text{ gallons}$$

TOTAL

Using the information and assumptions stated above, a DNAPL (tar) volume of approximately **167,400** gallons was calculated for the Copper Falls Aquifer (OU-2).

2.3 The Bay Area Sediments

DATA INPUT

The following documents served as reference for calculation of DNAPL quantity associated with the Bay Area Sediments:

- *Appendix D, Remedial Action Options Feasibility Study - Final Report – for the Ashland Lakefront Site, D&M, March, 1999.*
- *Sediment Investigation Report – Ashland Lakefront Property, SEH, July, 1996.*
- *Supplemental Investigation Report – Ashland Lakefront Property, SEH, March, 1998.*

The data/information presented/referenced in these reports include:

- Area of contaminated sediments in the bay
- Average depth of contaminated sediments in the bay
- Contamination concentrations of DNAPL (total PAHs) in the bay at areas selected from a grid

ASSUMPTIONS

The following assumptions have been made for the purposes of calculating DNAPL (tar) material in the Bay Area Sediments:

- The presence of free-phase DNAPL (tar) in the bay sediments has been defined as sediment contamination (total PAHs) concentration levels at or above 300 mg/kg.
- Thickness of DNAPL (tar) has been identified for two depths:
 - at 0 to 4 feet, a tar thickness of 4 feet, and,
 - at 4 to 8 feet, a tar thickness of 4 feet.
- A soil porosity of 0.3 was used in the calculations.

CALCULATIONS

We have performed calculations as follows:

At the 0 to 4 ft depth:

Using the assumed concentration of total PAHs as indicative of DNAPL (tar) in the sediments, an area of approximately 170,000 ft² was identified as contaminated at the 0 to 4 foot depth.

Therefore, the area of DNAPL (tar) contamination at this depth = $A_{4ft} = 170,000 \text{ ft}^2$

DNAPL volume is defined as:

$$V_{e4ft} = (A_{4ft}) (\text{DNAPL thickness}) (\text{porosity})$$

Therefore:

$$V_{e4ft} = (170,000 \text{ ft}^2) (4 \text{ ft}) (0.3) = 204,000 \text{ ft}^3$$

$$204,000 \text{ ft}^3 = 1,525,920 \text{ gallons}$$

At the 4 to 8 ft depth:

Using the assumed concentration of total PAHs as indicative of DNAPL (tar) in the sediments, an area of approximately 20,000 ft² was identified as contaminated at this depth.

Therefore, the area of DNAPL contamination at this depth = $A_{8ft} = 20,000 \text{ ft}^2$

DNAPL volume is defined as:

$$V_{e8ft} = (A_{8ft}) (\text{DNAPL thickness}) (\text{porosity})$$

Therefore:

$$V_{e8ft} = (20,000 \text{ ft}^2) (4 \text{ ft}) (0.3) = 24,000 \text{ ft}^3$$

$$24,000 \text{ ft}^3 = 179,520 \text{ gallons}$$

The total defined DNAPL (tar) present in the Bay Area Sediments = 1,525,920 + 179,520 = 1,705,440 gallons.

TOTAL

Using the information and assumptions stated above, a DNAPL (tar) volume of approximately 1,705,400 gallons was calculated for the Bay Area Sediments.

2.4 Kreher Park

The following documents served as reference for calculations of DNAPL (tar) quantity associated with Kreher Park:

- Letter to IGT from D&M, “RE: Tar Volumetric Calculations, Ravine Fill Operable Unit, NSP Ashland – former MGP”, January 20, 2000. (Appendix B)
- Fax Letter to IGT from D&M, “Subject: NSP-Ashland”, January 25, 2000. (Appendix B)
- *Sediment Investigation Report – Ashland Lakefront Property*, SEH, July, 1996.

The data/information presented/referenced in these reports include:

- The area of Kreher Park.
- Thickness of DNAPL in MW-7.

ASSUMPTIONS

The following assumptions have been made for the purposes of calculating DNAPL (tar) material in Kreher Park:

- The product pool has been assumed to be elliptical in shape, with 30 ft major axis and 15 ft minor axis, around the seep area.

- The thickness of the DNAPL (tar) is assumed to be 10.44 ft, based on tape measurement in MW-7.
- A soil porosity of 0.35 was used in the calculations.

CALCULATIONS

We have performed calculations as follows:

Area of elliptical shaped product pool is defined as:

$$A = \pi (L/2) (W/2)$$

Therefore:

$$A = \pi (30/2) (15/2) = 353.43 \text{ feet}^2$$

Volume of product present in the pool is defined as:

$$V_e = (A) (\text{thickness of product}) (\text{soil porosity})$$

Therefore:

$$V_e = (353.43 \text{ ft}^2) (10.44 \text{ ft}) (0.35) = 1,292 \text{ ft}^3$$

$$1,292 \text{ ft}^3 = 9,660 \text{ gallons}$$

TOTAL

Using the information and assumptions stated above, a DNAPL (tar) volume of approximately **9,700** gallons was calculated for Kreher Park.

2.5 Total Volume Estimate Of Tar In The Environment

The total volume estimate of DNAPL (tar) in the environment from all areas (the Ravine Fill area, Copper Falls aquifer, the Bay Area Sediments and Kreher Park) is **1,930,600** gallons.

3.0 ESTIMATED TAR PRODUCTION BY THE ASHLAND FORMER MGP

3.1 Operations At The Former MGP Site In Ashland

The Ashland former MGP operated as a manufacturer of water gas and carburetted water gas between 1885 and 1947. The Gas Technology Institute holds an almost-complete set of Brown's Directory of American Gas Companies, a unique directory of company information on the gas distribution and transmission industry in North America. Based upon data recorded in the Brown's Directory (published annually since 1887), the Ashland site used naphtha as the feedstock from 1887 to 1890. From 1891 to 1894, a process named for J. D. Patton was reported, most likely using naphtha as the fuel source. The process employed from 1895 to 1898 is unknown. However, it is clear that starting in 1898, the Lowe process or carburetted water gas process was used at the facility. It is likely that oil gas was the primary feedstock during this period. Therefore, it has been assumed that from 1917 to 1920 oil was used and from 1921 to 1947 gas oil was used as the enriching agent in the CWG process. For a brief time in 1917, the Lake Superior District Power Company (LSDP) reported the production of coal gas, comprising less than 15 percent of that year's output. However, no other coal gas production at any other time had been reported¹.

There is no specific data available on the daily operation of the Ashland former MGP. As such, GTI has incorporated values typical of carburetted water gas process facilities in calculations specific to the Ashland facility.

3.2 Overview Of The Carburetted Water Gas Process

Water gas was invented by Fontana in 1780 by passing steam over incandescent carbon. This gas consisted of carbon monoxide and hydrogen and burns with a blue flame. Hence, it was also called *blue gas*. The *Carburetted Water Gas* (CWG) process, invented by T. S. C. Lowe in 1875, was essentially a water gas enriched with liquid hydrocarbons or oils, which were sprayed into the water gas and thermally cracked to produce gaseous and liquid products. The heating values of water gas and CWG were about 300 and 530 BTU/ft³, respectively. The difference of

the heating value was made up by the heating values of liquid hydrocarbons or oils introduced to the CWG process.

Lowe's process rapidly began to replace other forms of retort coal gas production in the late nineteenth century (see Appendix C). It quickly became the predominant method for town gas production in the United States because of its lower capital and operating costs, higher capacity and greater operation flexibility. The other important factor for the wide spread use of the Lowe's process was the rapid growth of the U.S. petroleum industry after the 1880's, which provided an abundant supply of petroleum fractions as the enriching or *carburetion* oils. By 1882, a considerable percentage of the town gas output of the United States was carburetted water gas. In 1920, about 64% of the manufactured gas in the United States were produced from CWG plants⁶.

3.3 Process Description Of Carburetted Water Gas

The carburetted water gas process consisted of three basic units in a closed-loop system: a water gas generator, a carburetor filled with checker brick and a firebrick-lined superheater, also containing checker bricks. In the CWG process, blast products from the water gas generator were used to heat up the carburetor and superheater, into which the enriching or carburetting oil was injected, vaporized and cracked in the presence of water gas produced from the generator. A conventional 3-vessel arrangement CWG unit is shown in Figure 1⁷. The schematic flowsheet of a typical CWG plant is shown in Figure 2⁸.

Carburetted water gas plants were operated in a cyclical manner, with alternate "blows" to heat up the generator, carburetor, and superheater followed by "runs", in which water gas was produced and enriching liquid hydrocarbons were cracked into the gaseous products.

During the blow cycle, producer gas was generated by blowing air through the generator containing a coke or coal bed. This gas was then burned with secondary air admitted at the top of the carburetor. The combustion product gases flowed through the carburetor and superheater filled with checker bricks and heating up the bricks. The combustion flue gas was either

discharged to the atmosphere or routed through a waste heat boiler. Low-pressure steam was generated in the waste heat boiler and used for the run cycle.

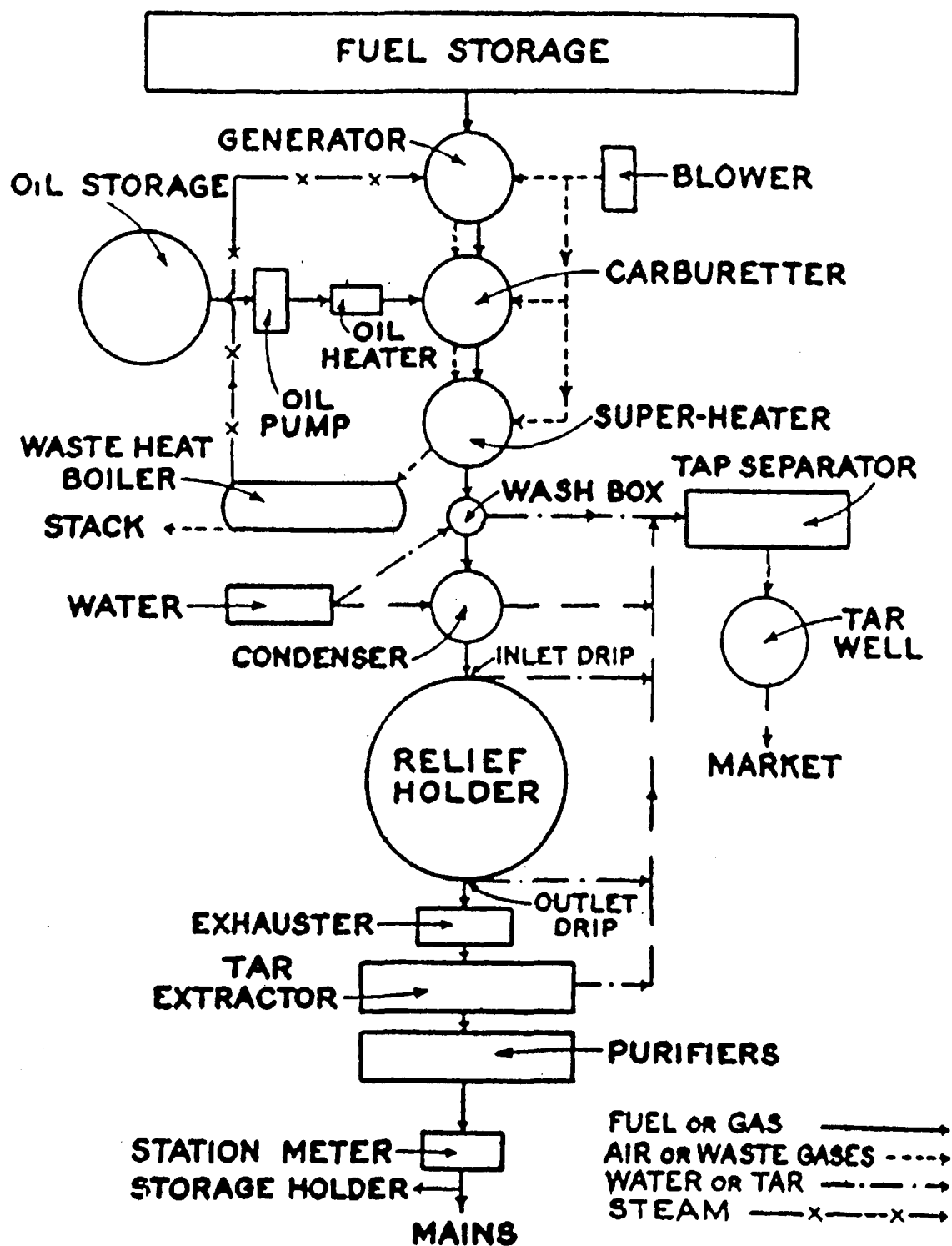
During the run cycle, a producer gas was generated by shutting down the air and injecting steam into the generator. The enriching oil was then sprayed into the carburetor. The resultant mixture of water gas and oil flowed through the carburetor and superheater where the enriching oil was vaporized and cracked to gaseous products.

Hot raw CWG leaving the superheater at temperatures up to 1400°F flowed through a water-sealed wash box or a hydraulic main where the gas was evaporatively cooled to about 180°F. Some tars were condensed during this step. The gas was then cooled to about 100°F in a condenser, where most water vapor, tars and oils were condensed and removed from the gas stream.

Types of CWG condensers varied and improved through time. Indirect-contact, air-cooled condensers were used for the early CWG plants. Vertical shell-and-tube condensers then replaced the air-cooled condensers around 1900. Direct-contact condensers or scrubbers became popular after 1910.

The tar-oil-water mixture from the condenser was then pumped to a tar separator, where tar and oil were separated from the water by gravity settling and collected as reusable byproducts. Entrained tar aerosols were further removed from the condenser effluent gas in a tar extractor or an electrostatic precipitator. The water removed from the tar separator was cooled in a heat exchanger and recycled to the condenser.

Figure 2: Material Flow Sheet for Carburetted Water Gas Plant⁸



3.4 Feedstocks To Carburetted Water Gas

The feedstocks to carburetted water gas plants consisted of:

- solid fuel such as coke or coal,
- enriching oil,
- air, and steam.

The flow rates of feedstocks of CWG plants varied considerably depending on the specific design and operation of CWG plants. Average ranges of feedstocks for the production of 1,000 cubic feet of CWG are:

- 15 to 50 pounds of solid fuel to the generator,
- 3 to 5 gallons of enriching oil,
- 1,000 to 2,000 cubic feet of air, and,
- 25 to 75 pounds of steam⁹.

The effects of solid fuel and enriching oil on the performance of CWG plant are reviewed in the following sections.

Solid Fuel

Anthracite coal or coke from bituminous coal was originally used in CWG production. Both were clean fuels, containing high carbon and low volatile materials. Increased costs of anthracite and coke after the turn of the century led to the use of bituminous coals in the generator. The use of bituminous coal reduced the gas production capacity, increased the entrainment of coal dust from the generator into the carburetor and produced smoke during the air blows of the operating cycles. It also increased the production of tar acids, tar bases and cyanides. The requirements of solid fuel for the generator depended upon the specific process arrangements and operating conditions. The range of the generator fuel for typical CWG plants is 15 to 50 pounds per 1,000 cubic feet of CWG, with a nominal heating value of 530 BTU/SCF⁹.

Enriching Oil

Liquid hydrocarbons ranging from naphtha, gas oils and fuel oils to heavy oils were used as the enriching oil for the carburetted water gas process. From about 1880 through World War I, CWG plants mainly used the naphtha fractions of petroleum as the enriching oil. Naphtha vaporized readily in the carburetor and superheater, and essentially all of the naphtha was converted to gaseous products. The tar yield for CWG enriched with naphtha was less than 3.5% by volume of the naphtha feed¹⁰. Naphtha was a valuable resource, however, and as the cost of naphtha dramatically increased after World War I, the enriching oil for CWG plants was switched from naphtha to other oils.

The fraction of petroleum with boiling points between kerosene and lubricating oils, commonly known as gas oils, was increasingly used as the enriching oil after 1895. The tar yield for CWG enriched with gas oils was, however, about 12 to 18% by volume of the gas oil feed¹⁰. However, with increased demand for gasoline and the invention of catalytic cracking of gas oils to gasoline, the use of gas oils as enriching oil was switched to fuel oil around the 1930's. As the price of fuel oils again increased in the late 1940's, some CWG plants switched to heavy oils. The tar yield for CWG plants enriched with fuel oils and heavy oils was about 25 to 30% by volume of the enriching oil feed⁷.

The amount of enriching oil fed to CWG plants depended on the degree of enrichment, type and quality of enriching oil, and the heating value of product gas. The range of enriching oil feed to typical CWG plants is 3 to 5 gallons per 1,000 cubic feet of CWG with a nominal heating value of 530 BTU/SCF⁹.

3.5 Effluent Streams From Carburetted Water Gas

The major effluent streams from carburetted water gas plants include:

- 1) manufactured town gas,
- 2) tars and oils, and,
- 3) tar-oil-water emulsion.

The characteristics of each are reviewed in the following sections.

Manufactured Town Gas

Typical compositions of manufactured town gas and some key operating data of CWG plants enriched with gas oil are shown in Table 1¹¹. The standard heating value of manufactured CWG was typically 530 BTU/SCF. Some CWG plants enriched the gas heating value up to 1,000 BTU/SCF.

Tars and Oils

Tars and oils were produced during the manufacturing of CWG. Tars produced from CWG plants contained no tar acids or tar bases, and generally were lighter and less viscous than tars produced by coal carbonization plants. The amount and property of tars produced by CWG plants mainly depended on the type and amount of enriching oil used for gas production. The tars produced by CWG plants were less than 3.5%, 18% and 30% by volume of naphtha, gas oils, and heavy oils, respectively. Tars produced with naphtha and gas oils generally had lower specific gravity, viscosity, benzol-insoluble materials and pitch content than tars produced with heavier grades of enriching oil such as fuel oils and heavy oils. It is most likely that the Ashland former MGP operated with naphtha and gas oils as enriching agents based upon the Brown's Directory information

The quantity and quality of tars produced by CWG also depended on the operating conditions of CWG plants, such as the temperatures and gas residence time in the carburetor and superheater. Higher temperatures at the carburetor and superheater would overcrack the enriching oil and produced tars with higher specific gravity, viscosity, and carbon content. CWG plants that were operated at lower temperatures produced tars similar to the original enriching oil feed.

The amount of tar produced by CWG plants enriched with gas oils is shown in Table 2. The average tar yield ranged 0.2 to 0.9 gallon per 1,000 ft³ of CWG⁹.

Oil produced by CWG plants consisted primarily of the light aromatic compounds such as benzene, toluene and xylene. It floated to the top of the tar-oil-water liquid mixture in the tar separator and was removed and recovered by oil skimmers. Drip oils were the hydrocarbons, with compositions similar to the recovered oils, condensed in the gas holders, meters or mains. The collected drip oils were usually mixed with the recovered tars and oils. Published data on the amount of oils recovered from CWG plants is limited. Based on available operating data and heat balances, the oils recovered from CWG plants enriched with gas oil is approximately 10% by volume of the tar yield^{8,12}.

Tar-Oil-Water Emulsion

A tar-oil-water emulsion was usually formed during quenching and cooling of the superheater off-gas. The tars and oils component was separated and recovered from the emulsion by gravity settling in the tar separator. Recovered tars were often used on-site as boiler fuel. Most of the aqueous emulsion from the tar separator was recycled, and some emulsion was disposed on-site.

The factors which affect the formation of emulsion include the method of gas cooling, type of enriching oil, quantity and quality of tars and oils produced and the presence of entrained particulates in raw CWG. Small droplets of tar, oil and water vapor produced from the rapid cooling of raw CWG by direct quenching with water created a stable form of emulsion. Enriching oils such as naphtha and paraffinic-based oils produced little or no emulsion, whereas heavy fuel oils generated more emulsion. The practice of dumping all of the tars and oils into a

common vessel by many CWG plants also assisted the formation of emulsion. Published data on emulsion generated by CWG plants is very limited. CWG plants enriched with heavy oils generated 2 to 4 gallons of emulsion per 1,000 cubic feet of CWG¹³. These emulsions contained 65 to 80% of water^{7,13}.

The Ashland former MGP was most likely enriched with naphtha and/or oil gas, based upon the Brown's Directory information. As such, it is expected that little or no emulsion was produced. However, a value of 2 gallons per 1,000 cubic feet of CWG was used in the GTI calculations.

3.6 Tar Production Based on Total Gas Production

Based on our review of available information, the **total gas produced** at the NSP former MGP in Ashland during the period 1985 through 1946 was approximately **1,373,496,680 MCF** (Note: 1 MCF = 1,000 Cubic Feet of Gas).

Based on the review of available literature and our estimations, the tar yield ratio (gallons of tar produced per one MCF gas produced) varies from 0.225 to 0.866 and averages 0.485. The tar yielded in the CWG process is most often in the form of an emulsion, co-mingled with a large quantity of water and a small quantity of residual oils. The emulsion typically consists of 65-80% water; oil quantity is generally 10% of tar quantity. Based upon feedstock information pertaining to the Ashland former MGP, the oils produced were most likely light aromatic compounds, such as benzene, toluene and xylene, which are easily volatilized. These compounds, along with residual tar, were generally recovered from the emulsion. Most of the water was recycled and some was disposed.

Assuming the emulsion-to-gas produced ratio is 2 gallons of emulsion per 1,000 cubic feet of gas produced, a total of 2,746,993 gallons of water-tar-oil emulsion was produced. If it is assumed that nearly 75% of the total quantity is water, then approximately 2,060,247 gallons was water and nearly 686,748 gallons was tar and oil. Assuming that the oil quantity is 10% of tar quantity, approximately 62,431 gallons of light oil was in the emulsion and approximately 624,316 gallons of tar was in the emulsion.

However, GTI believes that the calculation of total tar production using the total gas production number and assumed average tar ratio yields a more accurate estimate. Therefore, based on the total gas production of 1,373,496.68 MCF and tar yield ratio of 0.485, the **estimated total tar produced at the NSP former MGP in Ashland, WI is approximately 666,146, say 666,100 gallons.**

Assuming the oil yield is 10% of the total tar yield, an estimated total of 66,615 gallons of light oil was produced.

Table 1. Operating Results of Carburetted Water Gas Plants Enriched with Gas Oils¹¹

Type of Generator	Hand Clinkered 12' OD	Mechanical Grate, 9' ID	Mechanical Grate, 9' ID
Enriching Oil	Gas Oil	Gas Oil	Gas Oil
API Gravity @ 60°F	29.2	35.4	30.0
Specific Gravity	0.881	0.846	0.876
Enriching Oil/CWG, gal/1000 ft ³	3.79	2.85	5.68
Solid Fuel to Generator	Coke	Coke	Coke
Solid Fuel/CWG, lb/1000 ft ³	30.0	27.0	16.8
Tar Yield/CWG, gal/1000 ft ³	0.86	0.40	1.33
Gas Heating Value, Btu/ft ³	545	528	680
Gas Composition, vol%			
Carbon Dioxide	4.0	4.8	2.7
Illuminants	9.1	9.1	13.5
Oxygen	0.9	0.7	0.6
Carbon Monoxide	28.3	31.2	19.7
Methane	14.3	10.0	20.5
Ethane	0	0	2.0
Hydrogen	27.1	35.1	29.8
Nitrogen	16.3	9.1	11.2
Total	100.0	100.0	100.0

Table 2. Operating Data of Carburetted Water Gas Enriched with Gas Oil

Reference	11	14	15	11	8	11	11
Solid Feed	Anthracite	Coke	Coke	Coke	Bituminous	Coke	Coke
Carburetting Oil Feed	Gas Oil	Gas Oil	Gas Oil	Gas Oil	Gas Oil	Gas Oil	Gas Oil
Gas Heating Value, Btu/cu ft	521	500	485	528	520	535	545
Solid Feed/CWG, lb/1000 cu ft	31.3	44.0	35.5	27.0	28.7	26.2	29.2
Oil Feed/CWG, gal/1000 cu ft	2.5	2.0	3.0	2.9	2.6	2.9	3.8
Tar Yield/CWG, gal/1000 cu ft	0.225	0.300	0.346	0.400	0.543	0.720	0.860
Tar Yield/Oil Feed, wt%	9	15	12	14	21	25	23

NSPW021033

4.0 SUMMARY OF VOLUMETRIC ESTIMATES

ESTIMATED TAR IN THE ENVIRONMENT:

Ravine Fill Area (OU-1)	48,100 gallons
Copper Falls Aquifer (OU-2)	167,400 gallons
Bay Area Sediments	1,705,400 gallons
Kreher Park	9,700 gallons

TOTAL: 1,930,600 gallons

ESTIMATED TAR PRODUCTION BY THE ASHLAND FORMER MGP:

TOTAL: 666,100 gallons

5.0 CONCLUSIONS

The Gas Technology Institute has performed volumetric estimates for specific areas in the town of Ashland, WI that have been impacted by DNAPL (coal tar). GTI has also researched the process of carburetted water gas production and calculated a total estimate for DNAPL (tar) produced by the NSP former MGP over the period of active operation. Using the documentation provided to GTI, published information, reasonable assumptions and sound mathematical equations presented in this report, it is estimated that the total volume of DNAPL (tar) in the environment (the Ravine Fill, Copper Falls aquifer, The Bay Area Sediments and Kreher Park areas) amounts to 1,930,600 gallons. The total volume of DNAPL (tar) produced by the NSP former MGP is estimated to be 666,100 gallons. This amounts to nearly 3 times as much DNAPL (tar) in the environment as was produced by the former MGP facility.

The Ashland former MGP operated as a carburetted water gas facility. The tar which resulted from the CWG process was most often in the form of an emulsion, co-mingled with a large quantity of water and a small quantity of residual oils. The emulsion typically consisted of 65-80% water; oil quantity was generally 10% of tar quantity. Based upon feedstock information pertaining to the Ashland former MGP, the oils produced were most likely light aromatic compounds, such as benzene, toluene and xylene, which were easily volatilized. These oil compounds, along with residual tar, were generally recovered from the emulsion. Most of the water was recycled and some was disposed.

The tar produced from the CWG process is unique. GTI (IGT) had previously fingerprinted the tar from the Ravine Fill Area (OU-1) and the Copper Falls aquifer (OU-2). It was identified as a carburetted water gas tar. The DNAPL (tar) samples retrieved from the Bay Area Sediments and Kreher Park were distinctly dissimilar to the DNAPL from OU-1 and OU-2 and were not identified as a carburetted water gas tar^{16, 17}. Additionally, it has been reported that wood treatment operations were located in Kreher Park. The use and disposal of creosote, containing an MGP-type tar, could account for the quantity of tar in the Ashland Lakefront Site areas. It remains, however, that, 1) the types of tars found in OU-1 and OU-2 are distinctly different from that found at the Ashland Lakefront Site areas, and, 2) even if all the by-product tar from the

NSP former MGP was deposited in the environment, there would still be a nearly 3-fold increase in volume present in the soils and sediments.

APPENDIX A

GTI EXPERIENCE

The Gas Technology Institute (GTI), a recent combination of the Institute of Gas Technology (IGT) and the Gas Research Institute (GRI), is an independent, not-for-profit energy and environmental research development and education organization, initially established with the support of the natural gas utility industry in 1941. GTI's role was broadened in the 1970s to encompass the development of environmental management/site remediation technologies. Today, GTI conducts research in all major areas of energy production and utilization, including pollution abatement, environmentally responsible waste management and processing, waste conversion, fossil fuels and renewable resources to clean fuels and chemicals, energy systems analysis, fuel cell technology, hazardous waste cleanup, natural gas distribution and operations, natural gas production and processing, and space conditioning. The Institute's over 250 degreed scientists and engineers are in the forefront of developments in acoustics, catalysis, electrochemistry, energy and environmental biotechnology, environmental engineering, fluidization, and waste detoxification and destruction.

GTI performs contract research for about 75 organizations annually, including Federal and local government agencies, the Electric Power Research Institute, gas and electric utilities, engineering firms and private industry. The GTI headquarters and laboratories are located in Des Plaines, Illinois. The facilities consist of a 269,000 square-foot building situated on 9 acres. Of the total floor space, some 130,000 square feet on two floors is laboratory space devoted to electrochemistry, biotechnology, gas distribution, chemical analysis and chemical process research. The GTI facility possesses a library containing one of the world's largest collections of information on natural gas technology, including more than 33,000 texts and bound journals, over 500 periodical and newsletter subscriptions, 100,000 technical reports, 5,000 patents, 1,000 theses and 130,000 microfiche documents.

GTI has been developing innovative technologies for environmental application since 1965. Through the years, it has established itself as a reputable leader with wide name recognition in

the environmental field. GTI has a broad range of experienced technical staff expert in varying areas directly applicable to site management, from environmental assessment to technology development and full-scale remediation. GTI has conducted work on a wide range of sites, but specializes in MGP site management and remediation. GTI has developed and demonstrated treatment processes for the remediation of soil and groundwater contaminated with compounds such as heavy metals, polynuclear aromatic hydrocarbons (PAHs), volatile hydrocarbons (BTEX), polychlorinated biphenyls (PCBs), and cyanide. The laboratories at GTI also possess experience in developing integrated environmental remediation technologies, including unique approaches to combined biological, chemical, and physical approaches. GTI has three technologies in the U.S. EPA's SITE program and has recently completed field testing of two environmental remediation technologies for the treatment of soil containing organic pollutants.

GTI is known for its ability to integrate business and technical evaluations to construct site management programs which both meet client and regulatory requirements. Serving as a key player in regulatory negotiations, GTI has been able to provide technical and supporting evidence for reasonable site closures. GTI routinely interfaces with regulators in many states each year and holds work shops for them on innovative and effective site closure approaches. GTI is viewed by many regulators as an impartial third party. This reputation, scientific credibility and the ability to articulate complicated technical issues to regulators and other shareholders has led to acceptance of GTI's site management programs. Consequently, GTI has been able to secure less aggressive site management programs for its members and clients at lower overall costs, while continuing to meet the needs of the regulators. Providing assistance in rate recovery and insurance issues has also been a key focus at GTI. Overall, GTI has established credibility as an impartial evaluator of site management strategies, ranging from site monitoring only to full-scale remediation.

GTI is also able to provide community relations services, select appropriate and prudent remedial options for site closure, define milestones for site monitoring programs, prepare work plans for remediation and assist in contractor selection, implement and track remedial progress and share in the risk and benefits with member companies for cost effective site management.

APPENDIX B

LETTERS



DAMES & MOORE

A DAMES & MOORE GROUP COMPANY

25 Kessel Court, Suite 201
Madison, Wisconsin 53711-6227
608 273 2886 Tel
608 273 3415 Fax

January 20, 2000

Ms. Diane Saber
IGT
1700 S. Mount Prospect Rd.
Des Plaines, IL 60018-1804

RE: Tar Volume Calculation
Ravine Fill Operable Unit
NSP Ashland-Former MGP
Dames & Moore Project No. 05644-092-133

Dear Diane:

This is the final deliverable promised for you to complete your review of Dames & Moore's volume estimates of the tar quantities present in the environment at the NSP Ashland facility. For this calculation, we have assumed a "worst-case" condition, using the greatest tar measurements made for this operable unit. The principal background document you will likely need for your review is our March 1, 1999 *Supplementary Facility Site Investigation and Remedial Action Options Report* for the NSP site.

The greatest product thicknesses measured for the ravine fill wells were made on August 23, 1999 (See attached table). From this data and Figure 4-1 in the March 1, 1999 report (attached), the following table can be constructed:

<u>Well No.</u>	<u>Hydrocarbon Thickness¹ (ft)</u>	<u>Plume Width² (ft)</u>	<u>Distance Between Wells³ (ft)</u>
MW-15	10.6	30	87
MW-9	1.6	20	77
TW-13	0.5	20	

1 Measurements made 8/23/99

2 Plume width based on Figure 4-1 from 3/31/99 report. Plume width based upon likely extent of tar from all boring log data for adjacent borings (see Figure 3-1 and boring logs in Appendix A).

3 Distance between wells determined from Figure 4-1.

Assuming a fill-soil porosity of 0.30, an approximate tar volume is as follows:

$$0.30[(10.6 + 1.6)/2 \times (30 + 20)/2 \times (87) + (1.6 + 0.5)/2 \times (20 + 20)/2 \times (77)] = 4,465.35 \text{ (ft}^3\text{)}$$

$$4,465.35 \times 7.48 \text{ gal/ft}^3 = 33,400 \text{ (gals)}$$

This quantity likely overestimates the actual tar present. This estimate assumes that the product thicknesses will not increase beyond these 8/23/99 measurements, despite the viscous nature of the tar and the slow well recovery times following well development/purging.

NSPW021040

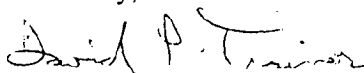
Offices Worldwide



Ms. Diane Saber
IGT
January 20, 2000
Page 2

Please call with any questions.

Sincerely,



David P. Trainor
Principal

cc: Jim Musso
Dave Crass

Dpt\uspsabe0120.ltr

NSPW021041

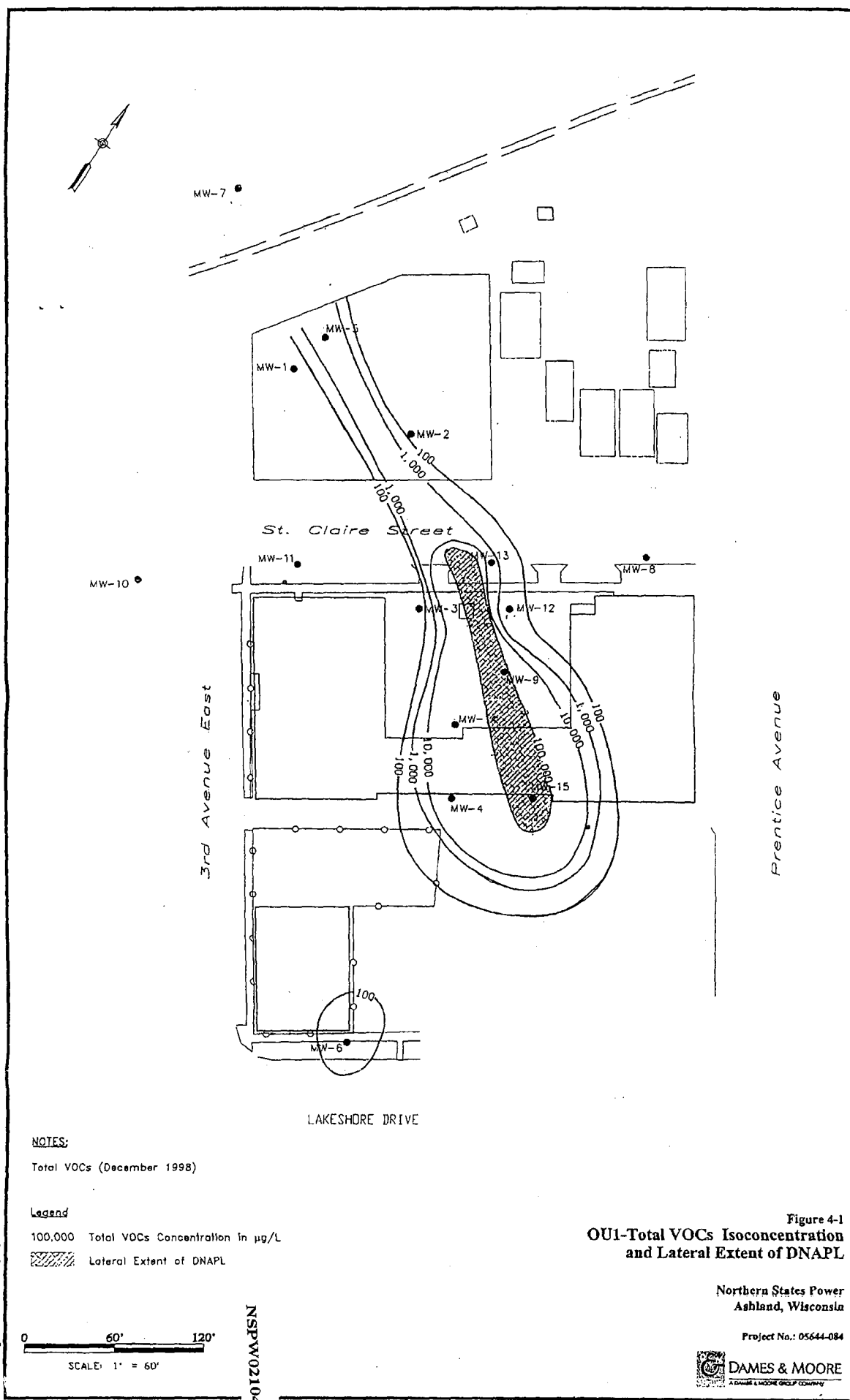
Offices Worldwide

Table 3
Summary of Free Phase Hydrocarbon Thicknesses

Well Location	Depth to Bottom	October 6, 1998			November 23, 1998			June 2, 1999		
		Depth to Hydrocarbon	Feet in Well	Feet on Tape	Depth to Hydrocarbon	Feet in Well	Feet on Tape	Depth to Hydrocarbon	Feet in Well	Feet on Tape
EW-1	53.51	41.45	12.06	12.25	40.09	13.42	13.50	35.25	18.26	18.2
MW-7	17.88	(1)	(1)	10.14	(1)	(1)	10.01	(1)	(1)	9.91
MW-9	14.62	13.78	0.84	2.73	14.20	0.42	3.6	14.03	0.59	--
TW-13	14.82	(2)	(2)	(2)	(2)	(2)	(2)	18.10	0.31	2.2
MW-13A	45.33	43.22	2.11	4.73	43.36	1.97	3	43.37	1.96	--
MW-13B	69.82	43.56	26.26	26.1	43.56	26.26	27.6	52.28	17.54	--
MW-15	15.59	14.78	0.81	2.94	13.93	1.66	2.09	13.26	2.33	2.6
Well Location	Depth to Bottom	August 23, 1999			November 29, 1999					
		Depth to Hydrocarbon	Feet in Well	Feet on Tape	Depth to Hydrocarbon	Feet in Well	Feet on Tape	Depth to Hydrocarbon	Feet in Well	Feet on Tape
EW-1	53.51	34.31	19.20	--	(2)	(2)	16.2			
MW-7	17.88	(1)	(1)	10.44	(2)	(2)	0			
MW-9	14.62	13.02	1.6	--	(2)	(2)	< 1"			
TW-13	14.82	(2)	< 6 inches	< 6 inches	(2)	(2)	< 1 "			
MW-13A	45.33	(1)	(1)	8.5	(2)	(2)	2.1			
MW-13B	69.82	(1)	(1)	26	(2)	(2)	12.1			
MW-15	15.59	(1)	(1)	10.6	(2)	(2)	0.67			

- (1) Free phase hydrocarbons not detected by interface probe, free-phase hydrocarbons observed on tape.
 (2) Product not measured
 Hydrocarbon thickness in well is difference between depth to bottom and depth to hydrocarbon/water interface.
 Hydrocarbon thickness on tape measure after probe removed from the well.

NSPW021042





DAMES & MOORE

A DAMES & MOORE GROUP COMPANY

Fax Sheet

25 Kessel Court,
Suite 201
Madison, WI 53711
608 273-2886 Tel
608 273-3415 Fax

To	Company	Fax Number
Diane Saber	IGT	847-768-0546
From	Dave Trainor	
Date	January 25, 2000	
Subject	NSP-Ashland	
No. of pages	1	

NSPW021044

As you requested, the following responds in sequence to the three items you requested in your fax of yesterday:

1. Beginning on page 3 and concluding on page 4 of the December 4, 1998 letter from Dames & Moore to Michael Best & Friedrich (Appendix D of D&M's March 1, 1999 *Remedial Action Options Feasibility Study-Final Report For the Ashland Lakefront Site*), the historical information on gas production is described. This narrative concludes "the Ashland Plant employed the oil-gas CWG process throughout its operational life."

The basis for this conclusion, as reported on page 3, describes that the first reported gas production process in the earliest Brown's Directory reviewed for the plant (1898) is "Lowc." The narrative further states that Lowe was the inventor of the carbureted water gas process. After 1908, Brown's reports "Moses (water)" as the process manufacture. In addition, the gas production data in the LSDP Annual Reports (you were copied) shows (when available) "water gas" as the product. As described in my letter (footnote 6 of the production table), only during 1917 is anything but water gas reported as produced.

2. Later years of the Brown's directories (see 1929 and forward) report the gas oil feedstock used (in gallons) and "water gas generator fuel, 588 tons; coke, for boilers, 437 tons." More recent years provide further detail, as for 1939: "bituminous coal used as water gas generator fuel, 904 tons. Boiler fuel used, 541 tons bit. coal; tar, 2,800 gals.
3. See the answer in 2. above. For 1939 Brown's reports 2,800 gallons of tar used for boiler fuel. However, no other data on tar use as boiler fuel was reviewed. You should also note that for some of the earlier data (see the LSDP Annual Report for 1913-1914), the tar

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production reported is "none." However, we assumed otherwise for these calculations.

Finally, the Kreher Park DNAPL calculation:

The DNAPL measurement data shown on Table 3 of the January 20, 2000 letter I sent you last week shows the greatest thickness of product at MW-7 as 10.44 feet on August 23, 1999. (The November 29, 1999 measurement shows no product measured; however, the product was removed when we collected the sample for MHTA's analysis.) Well MW-7 is the only well at Kreher Park where product has been measured. Consequently, for this calculation, we can assume a product "pool" of some arbitrary width. Assume this diameter is 20 feet, with the pool averaging the thickness measured at the well. Additionally, because of the nature of the fill at the park, assume the soil porosity is higher than the 30% used for the ravine; assume this value is 40%.

Therefore:

$$0.40(10.44 \times 3.14159 \times (20)^2/4) = 1,311.9 \text{ ft}^3$$

$$1,311.9 \times 7.48 \text{ gal/ft}^3 = 9,813.2 \text{ gals}$$

Let me know if you need anything else.

NSPW021045

APPENDIX C

A HISTORICAL REVIEW OF MANUFACTURED TOWN GAS

The first town gas plant was built in England in 1812 by the London and Westminster Chartered Gas, Light and Coke Company to light the streets of London. In the United States, first town gas plants were installed in Baltimore in 1816, in Boston in 1822 and in New York in 1825¹⁶. In these early installations, bituminous coal was carbonized in small ovens or *retorts* at temperatures ranging from 600 to 800°C. Over the next one hundred years, a variety of gas manufacturing processes were developed. The major processes for manufactured town gas are coal gas, carburetted water gas and oil gas. The oil gas process was almost exclusively used in the Pacific Coast area of the United States, and therefore, it is not related to the operation of the NSP Former Manufactured Gas Plant (MGP) facility in Ashland, Wisconsin. The historical development of coal gas and carburetted water gas processes is reviewed and summarized in the following sections.

Coal Gas

William Murdock, generally credited as the father of coal gas, illuminated his home in England in 1792 with gas manufactured from bituminous coal in a vertical, cast iron retort. In this process, raw coal was heated or *carbonized* to high temperatures in a closed vessel, without direct contact of air, for the production of combustible gases or so-called “coal gas”.

The coal gas process can be divided into two groups, based on the size of the carbonization chamber. The ones with small chambers were referred to as *gas retorts* or *coal carbonization retorts*. Those with much larger chambers were referred to as *coke ovens*. Coal carbonization retorts can be further classified according to the position of retort chamber as horizontal, inclined and vertical.

Coal Carbonization Retorts

The early coal carbonization retorts were small, cast iron, vertical ovens which required frequent maintenance and could be operated at only low to moderate carbonization temperatures. During first half of nineteenth century, these units were replaced by horizontal, refractory-lined retorts. These types of retorts allowed for much higher carbonization temperatures (above 900°C) and easier operation¹².

The first U.S. town gas plant installed in Baltimore in 1816 used a horizontal carbonization retort¹⁶. Similar plants were installed in Boston, New York and other cities. A typical horizontal retort unit consisted of a number of half-cylindrical shaped ovens, ranging in length from 8 to 20 feet. These retorts were lined-up into banks or *benches*. In the process, hot flue gases from the combustion of supplied fuel gas and air flowed through the benches and around the outside of the retorts to provide the thermal energy required for the reactions inside of the ovens.

The shorter retorts were usually equipped with a door at only one end and are called *stopped-end retorts*. Most of the longer retorts had doors at each end and were called *through-retorts*.

Originally, only one retort was set in a bench and placed directly over the fire (called *direct firing*). As the number of retorts increased, the simple bench of one stopped-end retort was gradually developed into the bench of multiple through-retorts, and the direct firing of one unit was replaced by the *producer gas firing* system designed to heat many units simultaneously. Machines designed to charge (load) and discharge (remove) coal were also developed during the latter half of the nineteenth century to replace the labor-intensive, manual procedures. Table 3 shows some operating results of a horizontal through-retort¹⁷.

In late nineteenth century, rapid developments were made in coal gas production methodology. These included the use of silica material for fire clay, improvements in the recuperators, dry quenching systems for the cooling of coke and the introduction of scrubber standpipes. The greatest development was made in the carbonizing apparatus itself – the introduction of inclined and vertical retorts to replace horizontal retorts.

Inclined retorts had similar design to horizontal through-retorts except that the retorts were inclined at approximately 30°. The original concept was to use gravity to assist the flow of solid materials for charging and recharging purposes. In actual operation, the coke frequently jammed in the retorts and it was difficult to heat the retorts evenly. Only a few inclined retorts were built in the United States.

Table 3. Compositions of Typical Coal Gases¹²

	Horizontal Retorts	Vertical Retorts	Byproduct Coke Oven
Gas Heating Value, Btu/ft ³	615	615	586
Gas Composition, vol%:			
Carbon Dioxide	1.5	2.0	1.8
Illuminants	5.6	3.6	3.7
Oxygen	0.2	0.2	0.2
Carbon Monoxide	6.0	5.5	6.3
Methane	31.0	33.1	31.6
Ethane	0	1.8	0
Hydrogen	52.5	51.0	53.0
Nitrogen	3.2	2.8	3.4
Total	100.0	100.0	100.0

Vertical retorts, with coal fed from the top and coke removed from the bottom, came into general use and replaced most of horizontal retorts after 1910. Vertical retorts were classified as *intermittent* and *continuous* based upon the operation mode of coal charging and coke discharging. The main advantages of vertical retorts were lower labor requirements and improved quality and yield of gas and by-products.

Coal gas produced from horizontal carbonization retorts was, essentially, the only manufactured town gas available until the invention of the Lowe's Carburetted Water Gas Process in 1875¹².

By 1920, only about 17% of the manufactured gas in the United States was produced from carbonizing retorts⁶.

Coke Ovens

The term *Coke Ovens* refers to the group of carbonization units which utilize larger chambers for heating of coal. The “beehive oven” is the oldest form of coke oven, and it was introduced in the United States in 1841⁹. Beehive ovens were unique in that that heat required for coking was provided by the combustion of coal *within* the oven. Coal was introduced or “charged” into the oven through a hole in the top. A controlled amount of air was admitted through the openings in a side door, and volatiles from the coal were burned within the chamber to provide the thermal energy required for drying and devolatilization of coal. Because of this direct combustion of coal, most of the volatile content of the coal feed was converted to water vapor and carbon oxides. Therefore, the beehive oven design produced little or no gaseous or liquid byproducts¹⁰. The main advantage of beehive oven was its ability to produce high quality coke with low capital investment.

Another form of coke oven introduced from Belgium to the United States near the end of nineteenth century was the *Byproduct coke oven*. Byproduct coke ovens were constructed for economic production of metallurgical coke and the recovery of valuable byproducts. In this design, there was extensive recovery of waste heat in order to reduce overall fuel consumption and to improve process efficiency. The total heat requirement for a Byproduct oven can be provided by the combustion of only about 40% of the coal gas produced within the oven. Therefore, about 60% of the coal gas produced can be sold as byproduct. Additionally, the coke oven gas usually had a high heating value of between 520-560 BTU per cubic foot after light oils are removed. The first Byproduct oven was installed in Rochester, New York in 1895⁷. By the 1930’s, almost all smaller carbonization retorts and Beehive ovens in the United States were replaced by Byproduct coke ovens for coke production¹⁰.

Table 4 shows the gas compositions of coal gas produced from the carbonization of bituminous coal in Byproduct coke ovens, horizontal retorts, and vertical retorts¹².

Table 4. Operating Results of a Horizontal Through-Retort¹⁷

Coal Analysis, wt% as received:		
Moisture		1.2
Volatile Matter		37.6
Fixed Carbon		53.2
Ash		<u>8.0</u>
Total		100.0
Coal Feed to Retort, lb		1600
Fuel to Producer/Coal to Retort, lb/lb	0.11	0.15
Coke Produced, wt% of Coal Feed	68.6	65.75
Gas Yield, cu ft per lb dry coal	6.06	6.95
Gas Heating Value, Btu/cu ft	542	503
Tar Yield, gal/1000 cu ft	0.957	0.996
Gas Analysis, vol%		
Illuminants		3.2
Carbon Monoxide		8.5
Hydrogen		44.5
Methane		21.2
Ethane		3.4
Carbon Dioxide		3.2
Oxygen		0.6
Nitrogen		15.4
Total		100.0

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August 3, 2001

Jerry C. Winslow, P.E., J.D.
Xcel Energy
414 Nicollet Mall, RSq8
Minneapolis, MN 55401

RE: Revised Estimation of Tar (DNAPL) in the Bay Area Sediments, Ashland Lakefront Site,
Ashland, Wisconsin

Dear Mr. Winslow:

Gas Technology Institute (GTI) has performed a second, independent calculation of the estimated quantity of tar (DNAPL) in the Bay Area Sediments of the Ashland Lakefront Site, Ashland, Wisconsin. In August, 2000, GTI performed an initial calculation of the estimated quantity of tar (DNAPL) in the same area. The initial estimate was based on the data presented in the SEH Report, *Sediment Investigation Report*, July 1996 and in subsequent Dames & Moore Reports. The GTI estimation of DNAPL in the sediments was included in the report, *Volumetric Estimates Of DNAPL (Coal Tar) In The Environment And Total Tar Production From The NSP Former MGP Facility In Ashland, Wisconsin*, November, 2000. Calculations presented in that report concluded that the quantity of tar in the Bay Area was 1,705,400 gallons.

In February/March, 2001, an additional sediment investigation in the Bay Area was conducted by approval of the WDNR by URS, on the behalf of Xcel Energy. At the request of Xcel Energy, GTI used the data obtained through this sampling event, recorded in the report, *URS Final Report, Sediment Sample Results, NSP/Ashland Lakefront, Ashland Wisconsin* (Volume I of III, June 2001) and recalculated the estimated tar (DNAPL) quantity for the Bay Area Sediments, presented in Exhibit 1. The method of mathematical calculation used in the second estimate was identical to that method used in the original estimate. The revised estimate of DNAPL quantity in the Bay Area Sediments has been calculated as 2,338,161 gallons, with more than half of that volume located in the upper 2 feet of the sediments.

According to URS documentation, the February/March, 2001 investigation included continuous sampling with a one-inch (diameter) sampler (at 2-foot intervals) to depths varying from 8.7 to 19.3 feet below the water surface. A total of 59 sediment borings, SD-01 through SD-59, were drilled in the Bay Area. The depth to top of the sediments varied from 0.7 to 9.3 and averaged 5.5 feet from the surface of water. Thickness of sediments sampled varied from 4.0 to 14.0, and averaged 9.5 feet.

For comparison, the August, 2000 calculation was based on the previously obtained SEH sediment information recorded at intervals of 0 to 4-feet and 4 to 8-feet, and the revised calculation (Exhibit 1) is based on the sediment information recorded at intervals of 0 to 2-feet, 2 to 4-feet, 4 to 6-feet, 6 to 8-feet, and 8 to 10-feet.

Given the more precise collection of data during the February/March, 2001 sampling event, this resulting calculation of tar quantity in the Bay Area Sediments should more accurately represent actual site conditions.

If you have any questions regarding the calculations, please feel free to call me at 847-768-0538. I look forward to speaking with you soon.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. Saber', with a long horizontal flourish extending to the right.

Diane L. Saber, Ph.D.
Project Manager

cc: David Crass, Michael Best & Friedrich

EXHIBIT 1: BAY AREA SEDIMENTS - TAR QUANTITY ESTIMATE (Revised)

[300 mg/kg Criteria for SVOCs]

ASHLAND LAKEFRONT SITE

Ashland, Wisconsin

DEPTH BELOW GRADE [feet]	THICKNESS OF CONTAMINATED SEDIMENTS [feet]	AREA OF CONTAMINATED SEDIMENTS		VOLUME OF CONTAMINATED SEDIMENTS [ft ³]	POROSITY (AVERAGE)	VOLUME OF VOIDS IN CONTAMINATED SEDIMENTS [ft ³]	VOLUME OF TAR [gallons]
		[acres]	[ft ²]				
0 - 2	2	5.51	240,016	480,031	0.346	166,091	1,242,359
2 - 4	2	3.10	135,036	270,072	0.346	93,445	698,968
4 - 6	2	1.16	50,530	101,059	0.346	34,966	261,549
6 - 8	2	0.43	18,731	37,462	0.346	12,962	96,954
8 - 10	2	0.17	7,405	14,810	0.346	5,124	38,331
Total Estimate of Tar in Bay Area Sediments:							2,338,161

Note: This calculation is based on the input (area of contamination, thickness, porosity, etc.) obtained from the URS Final Report on "Sediment Sample Results," NSP/Ashland Lakefront, Ashland, Wisconsin, Volume I of III, June 7, 2001.

AFFIDAVIT
OF
VERNON J. ZAK

STATE OF WISCONSIN)
) SS.
COUNTY OF BAYFIELD)

I, VERNON J. ZAK, the undersigned, do hereby depose and state as follows:

1. I reside at Route 2, Box 72, in Iron River, Wisconsin. I was born on November 23, 1920 and I am 77 years old.

2. I was an employee of Lake Superior District Power Company ("LSDP") for 35 years. I began my employment with LSDP in 1947 working on the line crew.

3. In about 1948, I and Wayne Carlson and Rudy Leren hand-dug the trenches in which two pipelines were installed. The pipelines were approximately two inches in diameter and were buried three to four feet below ground. One pipe was used for the delivery of propane from a railroad tank car to a large propane tank on the LSDP property. The other pipe was a pressure or vapor line used to push the propane out of the tanker car. The pipelines did not contain coal tar and were not used for coal tar to the best of my knowledge. I did not observe any other pipes during the digging of this trench.

4. The trenches that I dug ran from the LSDP property, under St. Claire Street and under the main railroad tracks and ended aboveground next to the spur track. There was a pump house next to the spur track where the propane and vapor lines exited the ground.

5. I recall that after the manufactured gas plant was closed, commercial fisherman from Bayfield and the Green Bay area came to the plant to pump coal tar from the tar well located on the LSDP property. I saw the fishermen come for coal tar on a couple of occasions while I worked at LSDP. The Green Bay area fisherman pumped the coal tar into a tanker truck. Fishermen from Bayfield used 55-gallon drums to collect the tar. I believe the fishermen used the coal tar for preserving fish nets.

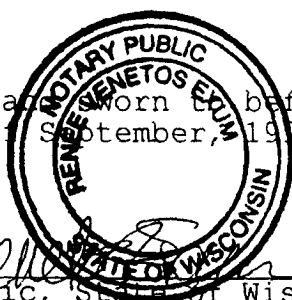
6. I have received no payment or benefit of any kind from any party for making this Affidavit.

Dated this 4th day of September, 1998.

Vernon J. Zak
Vernon J. Zak

Subscribed and sworn to before me
this 4th day of September, 1998.

Renee Wenzel
Notary Public, State of Wisconsin
My Commission: 5/31/2001.



Case Number 98-C160-009	Case Title NSP-Civil
Activity Interview with Vernon Zak	Date of Activity May 26, 1999

Narrative¹

On May 26, 1999 at 2:10 p.m. Environmental Warden Randal V. Falstad began an interview with Vernon J. Zak (DOB 11/23/20) at his residence at 13337 McCarry Lake Road in Iron River, WI (Route 2 Box 72)(715-372-4722). Falstad was assisting in an investigation of contamination that may have been a result of past waste handling practices by Northern States Power and wanted to ask Zak about his knowledge of the situation. After Falstad gave Zak a business card, he had the following to say:

Zak stated that he worked for the Power Company from 1947 until October 18, 1982, when he retired. He stated that when he started working there, the gas department was changing over from coal gas to propane. He worked in the gas department for two to six months while the change over occurred. He then went to the steam fittings section, working there for about six years. He went back to work in the propane department and worked there until he went to the design department where he designed lines until his retirement. Zak stated that he did put transformers on poles but never worked in the transformer department.

Zak stated that there was waste tar produced by the coal gas process. The gas was stored in a great big gas holder that was about 10-20 yards from the yard. Zak stated that he helped tear that holder down. The tar pit was inside the fenced yard. He stated that he knew that fisherman came and got the tar to treat their nets. There were some guys that came over from Green Bay and got the tar. He also stated that there were some guys from Ashland that would come and get a half a pail full for hand lines. One of those guys that made hand lines was the old shoemaker name John. Zak stated that he did not know if the fisherman took all the tar or if the pit had to be emptied on occasion. If it had to be emptied, he did not know where the tar went. Zak stated that he had heard the stories that the lumber mill below the plant had a tar pit. He stated that was before his time and he didn't know if their tar came from the power company or not.

During the conversion from coal gas to propane, Zak and Wayne Carlson dug the ditch for the pipeline that brought the propane up from the railroad tracks to the plant. The line ran

1

Warden Reporting Randal V. Falstad	Date of Report May 28, 1999	Exhibit Reference
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This document was produced as a result of an official Law Enforcement investigation. Contents, in whole or part, are privileged by s. 905.09, Wis. Stats., and may not be used without express permission of the Wisconsin Warden service or appropriate prosecutor.

from Water Street to the Railroad tracks. They did not run into any other pipes that had been used to pump material down the hill while digging the line. There was a pump buried down by the tracks that was used to pump the liquid propane from the railroad cars to a liquid storage tank on top of the hill. Zak stated that he had the job for a while of hooking out the railroad cars to the pump using flexible piping. Zak stated that he never remembered any propane spills. He stated that they didn't dare spill the liquid propane for fear of fire or explosion. He stated they used all bronze equipment to assure there was no sparking.

The big storage tank storage tank was about a 10,000-gallon tank and was 50-60 feet from the little building where the liquid propane was converted to gas. Zak stated that he didn't remember the tank being installed but was sure that the footings had to be dug in for the tank. He stated that he could not remember any cribs with contamination being dug out for those footings. After the gas was converted from liquid to gas, it was pumped to a big tank that was 10-15 feet from the building. From there it was dispersed to the customers through the same underground system that was used for dispersing coal gas.

Zak stated that he had no idea where the contamination that has been found below the hill came from. He stated he did not know of any pit that was down by the tracks.

The interview with Zak ended at 2:45.

CORRESPONDENCE/MEMORANDUM

State of Wisconsin

DATE: July 31, 1995

FILE REF: NSP/Ashland - Coal GAS

TO: File

FROM: Jamie Dunn - NWD

SUBJECT: Phone Contact - Vernon Zak - (715) 372-4722

On July 28, 1995, I contacted Mr. Vernon Zak regarding his involvement with the LSDP facility in Ashland. Mr. Zak explained he was hired in 1947, after the operation of the MPG had ceased. One of Mr. Zaks first jobs for LSDP, was to excavate a trench from the LSDP facility to the Wisconsin Railroad right-of-way for the installation of a pipe for the transference of liquid petroleum gas from the railroad tank cars to tanks at LSDP. In discussing the Kreher Park property, Mr. Zak referred to the contamination as "coal tar", but commented that he did not know where the coal tar came from.

D 000529

The Ashland News.

ASHLAND, WISCONSIN, THURSDAY, JANUARY 10, 1901.

A FORTUNE

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land.**

George Anson of this town is a young man today. On last fall and has the Home Investment. Last evening he received from Engle a heir to a fortune of his died there the sole descendant her property. The report such a sudden is elated over his leave this evening property.

Cases.

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Y. of Ashland's old sed away Satur ed Monday. The held at St. Agnes Fabian and then ry. Mark Mori Lewis, Canada, in in Restigouche to His family com boys and three ved to Ashland. working in the ills. He was al by until in 1894.

POPE'S MILL BRINGS A LARGE PRICE

A Strong Lumber Firm From Milwaukee With Plenty of Timber To Saw Is The Purchaser—The Mill Plant Brings Thirty Thousand Dollars—The Bidders.

W. G. Davis, receiver for the Pope Lumber Co., today sold that company's mill plant, planing mill, barn docks, etc., for \$30,000. This was the highest bid received by Mr. Davis and it was made by the John Schroeder Lumber Co., of Milwaukee. This amount is a great deal higher than it was expected the mill would sell for. Mr. Davis said he hardly thought the entire plant would bring much over \$16,000 and yet two bidders, both apparently anxious to get the property, pushed the price up to \$30,000 which will make the claims of the creditors of the Pope Lumber Co. increased a third or more.

It had been announced that the mill would be sold to the highest bidder at 2 o'clock today and when that hour arrived a large number of lumbermen assembled at the mill office.

Among the outside lumbermen at the sale were John Schroeder, of Milwaukee, John O'Brien and Edward Hines, of Chicago, C. C. Barker, of Bay City, and S. J. Cusson, of Duluth. When the sale was opened the price was quickly run up. Thomas Bardon helped to carry the bids up to \$21,000, representing no doubt the Ashland National Bank, a heavy creditor desiring of course to have the mill bring a good price. When Mr. Bardon dropped out the two remaining bidders were S. B. Stewart, who was bid-

ding for Barker, Brewer & Stewart, and Mr. Schroeder. Mr. Stewart finally bid \$29,500 and when Mr. Schroeder bid \$30,000 there were no more bids received and Mr. Davis sold the plant to the Milwaukee man.

For the benefit of Ashland the sale of this mill could not be made more desirably than was done today. As this paper mentioned six months ago the John Schroeder Lumber Co. has been seeking a location for a mill plant either here or at Duluth and their purchase of the Pope mill is a fine thing for the town. This company now owns 160,000,000 feet of timber on the north shore and their purchase means that it will be brought here and sawed. They have been logging this winter on this tract and when navigation opens will have fifteen million feet of logs ready to be towed to their mill here. The entrance of such a substantial and enterprising company as this is of great benefit to Ashland for it means at least 200,000,000 more feet of timber for this market which would in all likelihood have gone to the head of the lakes had not this sale ended as it did today. Ashland lumbermen and the citizens generally will welcome the John Schroeder Lumber Co. to this point and credit is due to the firm of Coman & Reik, inspectors, who have been instrumental in interesting the firm in this city as a location.

DOWN AT MADISON

What The Legislature Has Been Doing Today and Yesterday—The Tax Commission.

Madison, Jan. 10.—The second session of the Wisconsin legislature began this morning and the feature was the reading of Gov. LaFollette's message in joint session which set forth in clear and vigorous terms the governor's well known ideas about state government and reform measures. The legislature will not convene again until next week in order to give Speaker Ray time to name the committees of the assembly.

At yesterday afternoon's session Chief Justice Cassody called the assembly to order and administered the oaths of office to the members. When Speaker Ray was elected a committee consisting of Assemblymen Eline of Milwaukee, Hall of Menominee, and Rossman of Ashland was appointed to escort him to the chair.

The organization of the senate resulted in the first battle over the primary election law this point being uppermost in the selection of the committees. The fight began with the selection of the chairman of the caucus, and the selection of Senator Jones over Senator Stout by one vote was construed as a victory for the element which is opposed to the primary election law.

One of the surprises was the selection of Senator Mills, of Superior, for chairman of the committee on claims. Usually that place goes to a graybeard, because of the great responsibility attaching to it, but this time it has gone to one of the youngest men in the Senate. Another surprise was the substitution of Senator Bissell for Senator Stout on the committee on penal and charitable institutions. Senator Whitehead remains at the head of the committee on assessments and collection of taxes, which is a great satisfaction to the friends of the tax commission. It is the general expectation that there will be an attack of some sort on the commission and that strong effort will be needed to save it from being wiped out or crippled. Indeed, the tax commission is being criticised for allowing its report to be printed before it was submitted to the Legislature.

The feature of the report of the state tax commission, which has been awaited with keener interest than any public document ever issued in this state, is a recommendation that an additional tax amounting to \$600,000 a year be put on the steel railroads.

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NEWS AROUND THE CITY.

WAS ENJOYABLE.

The Foresters and their friends enjoyed a very happy time at their card social last evening. The attendance was good and the varied musical numbers rendered by the graphophone were decidedly entertaining.

ELECTED DELEGATES.

say that they have been about to the limit. The authorities evidently consider that this policy brings lots of strangers to their town.

NEXT TUESDAY NIGHT.

Since the sad affliction which has befallen Chas. H. Hoyt, America's most prolific far writer, theatrical men con-

AND DAILY PRES

ASHLAND, WISCONSIN, THURSDAY EVENING, JAN. 10, 1901.

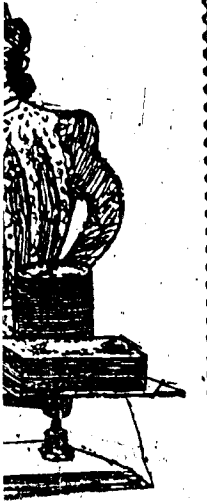
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SAW MILL SOLD FOR \$30,000

LIVELY BIDDING FOR POPE COMPANY'S PLANT

John Schroeder Lumber Company, of Milwaukee, the Successful Bidders—Will Make Extensive Repairs on Mill This Winter.

W. G. Davis, trustee for the Pope Lumber company, offered the saw mill property at public sale this afternoon, at 2 o'clock.
Capt. C. H. Ellis, representative of the John Schroeder Lumber company, of Milwaukee, secured the plant for \$30,000. The property was appraised at \$16,000 by Messrs C. F. Latimer, F. C. Knapp and Louis Johnson. The sale shows that mill property is very active in Ashland.
The first bid was made by Thomas Bardon, at \$17,000. The bidding was then run up by Capt. Ellis, Mr. Bardon and W. W. Stewart until the \$25,000 mark was reached by Mr. Bardon, who then dropped out. The bids were raised \$500 at a time, until Mr. Barker reached \$29,500. Capt. Ellis then bid \$30,000, which closed the sale.
The John Schroeder Lumber company of Milwaukee, rated at \$1,000,000, is one of the strongest lumbering concerns in Wisconsin, and also operates largely in Minnesota and Michigan.
The company has large holdings of pine stumpage on the north shore, in Lake and Cook counties, Minnesota. The gentlemen already have 200,000,000 feet of pine there, and are constantly adding to their holdings. This timber they will now bring to Ashland for manufacture.
The Schroeder Lumber company is welcomed to Ashland by our citizens, who feel that Ashland has gained richly by their coming. They will begin at once on extensive alterations and re-

pairs on their property, which will give employment to an army of workmen. Captain Ellis will have lumber enough to stock this mill for twenty years. Some member of the firm will remove to Ashland to reside permanently, probably Captain Ellis.
The office where the bidding took place this afternoon looked very much like an election booth on election day; it was so crowded. Among the well-known lumbermen there were Edward Hines, C. C. Barker, W. H. Gilbert, J. W. Cochran, F. C. Knapp, C. G. Bretting, D. W. Mowatt, J. T. Gregory, Julius Howard, John O'Brien, J. H. Madden, W. W. Wilcox, John F. Scott and others.
This mill property is one the most advantageously located in the city, with good docks, fine boomage grounds, machine shops, planing mill etc., which makes it a most desirable investment. The new blood, capital, experience and enterprise of this new firm will do much to add to the growth of Ashland, which has always been steady.
Barker & Stewart already have a plant at Wausau, one at Tower, and one here, and it shows their appreciation of Ashland as a lumbering center when they sought to establish a second plant at Ashland.
Captain Ellis, of the Schroeder Lumber company, has been in Ashland several days looking up matters in connection with the mill, getting ready to do his bidding.

Didn't Want the Disgrace.
Mr. H. D. Blackmore, who appears as William Fuller in Willis Maxwell Goodhue's famous farce, "Hello Bill" has a little niece of whom he is excessively proud. This little girl attended her first Sunday school a year ago and has since been a very devout member. While Mr. Blackmore was visiting the parents of this little girl the past summer, his niece delivered some very long dissertations to him on religious subjects, to his great amusement. Finally one

Keep Money at Home.
Every week Ashland people give hundreds of dollars to theatre troupes, who carry it away with them. Why not keep our profits at home, and have a great enjoyment at the same time? The proceeds from the Belle Watson-Melville entertainments will be given to the public schools and local charities, by a committee of venerable ladies. See to it that you cancel all engagements; and not only have a pleasant evening yourself, but help along a worthy cause.

FOUR ARE SELECTED.

Agent Campbell Selects Indians to Visit Washington.
Indian Agent S. W. Campbell returned today from the Nett Lake reservation, where he went to appoint four Indian delegates to visit Washington at the next session of congress. The major says that he appointed a representative from Tower, two from Nett Lake and one from Deer Lake, which appointments the Indian council ratified without opposition, and the delegates will leave for Washington about February 1. The Indians will be accompanied to Washington by the agent's farmer, Stephen Ghen, who will act as interpreter. Mr. Campbell says the Indians regard the going to Washington as one of the most important epochs of their lives, and the delegates selected are regarded among the rest of the Indians as very highly honored. Agent Campbell says he has received assurance from the Nett Lake Indians that they will, withdraw all their opposition to the support of the Indian school as soon as they are convinced that a school cannot be located on the reservation.

MAY INDICT POLICE.

Evidence Is Secured Against Officials of New York.
NEW YORK, Jan. 10.—Evidence that may result in the finding of indictments against police officials and others who are said to have been responsible for the prevalence of vice here is to be placed in the hands of the district attorney by the committee of five for submission to the grand jury.
So far as could be learned the charges are against members of the police department in various parts of the city who are said to have permitted gambling houses and disorderly places to flourish without interruption. Some of the charges of dereliction of duty against policemen will also be laid before the grand jury within a few days.

GOLD MAN SELECTED.

John P. Hopkins Chairman of the Illinois Democratic Committee.
CHICAGO, Jan. 10.—Former Mayor J. P. Hopkins of Chicago, who was recognized as one of the leaders of the gold wing of the Democratic party in Illinois in the campaign of 1896, was elected chairman of the Democratic state committee at the biennial meeting of that body, called for the purpose of organizing for the campaign of 1902. A resolution was passed with but three dissenting votes recognizing the Kansas City platform as representing the principles of the Democratic party until the next national convention.

NOT IN HIS WILL.

Millionaire Whitney's Heirs Make Bequests to Charitable Institutions.
NEW YORK, Jan. 10.—During the latter

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FINNS ABANDON A KEY

Tall Lumber Co.
Refuse Burner Drops,
Ending an Era Here

The forty-four year old refuse burner at the John Schroeder Lumber company's former mill site on Ashland's bay front, a construction of 110 feet high and 24 feet in diameter, has become a landmark of the local port, successfully fought two days of dynamiting and other pressure methods to drop it, but finally fell at 10:30 a. m. today.

Removal of the huge burner, one of the last vestiges of Ashland's early lumber mill industry, was accomplished by use of two seventy-five ton jacks, which a series of dynamite explosions in the foundation of the structure Saturday and Sunday failed to topple the landmark. The burner was recently sold to the Milwaukee-based Chicago Iron & Metal Company, Ashland, who contracted the Puskari brothers of Rte. 2, Ashland, Matt, Mike, Thomas, George and John, to remove it.

Work began Saturday. While the Puskari brothers had little trouble toppling the 124-foot smokestack at the mill early last week, they found the burner all but unquenchable. Six pounds of dynamite, exploded together with several tons of dynamite, failed to topple the burner. The series of explosions soon attracted many to the bay front to observe the workers and by Sunday a "sidewalk superintendent's club" had been formed, with observers offering their solutions to the problem.

The workers first propped the stack from the north side by using dynamite placed in crevices in the foundation. Guide wires, which had supported the stack since its construction in 1896, were attached to a system of pulleys and a tractor furnished the motive power. Simultaneous with discharge of the dynamite, the tractor tugged, but all efforts failed. The burner was lined with brick for six feet up, this tending to concentrate the weight on the base, thus its fighting efforts to make it fall.

Camera addicts at scene. When work was abandoned Saturday night, the burner was perched at about a ninety degree angle. But a huge host of camera addicts who dotted the ice west of the burner on Sunday morning were cheered shortly before noon by the optimism of the workers, who predicted the fall was near. All except one of the guide cables on the stack snapped under the pressure, however.

Sunday afternoon drivers and others braved cold temperatures however, with the largest percentage of observers armed with cameras, some still and others motion. By nightfall Sunday the burner had moved a few inches, but the desires of onlookers—and the workers—were still unsatisfied. Ironically, but only one cameraman and a newspaper reporter, both from the Daily Press, and a small group of men were present when the burner took its long-awaited fall. The crash created when it struck the ground was compared as equal in velocity to the detonation created when sticks of dynamite were ignited at one time Sunday afternoon.

Creaking Proceeds Fall. A creaking sound, somewhat more defined than those that had resulted as the burner moved by inches into its "Pia" position yesterday, heralded the "end" was near. Workers ran for safety. Gordon Kingsland focused his camera from a position of vantage on the ice-covered Schroeder slip and the reporter observed his watch for the "official time."

It bothered momentarily, then dropped with a resounding crash. An ice-logged rowboat, owned by Robert Dandaneau, was smashed in two by the burner, but it missed a building on the bay shore by inches. From the wreckage immediately after the fall, rose dust and soot, a forty-four year accumulation.

Workers, their faces wreathed in smiles, and J. E. Niespodziani, a Soo Line foreman and one of the "sidewalk superintendents," posed for pictures at the base of the upturned burner. The dynamite and bricks from the interior of the stack followed.

MORE CASH
IS SENT FOR
FINNISH RELIEF

The Daily Press Saturday forwarded another bank draft to the Finnish Relief fund made up of local contributions, the latest draft totalling \$105.16.

Total contributions from this region to date for Finnish relief are \$987.36, and include a \$15.00 contribution from Morning Star Lodge No. 12, Scandinavian American Fraternity.

A. ENGSTROM, SR.,
HERE PAST 60
YEARS, PASSES

Retired Carpenter, Former Schroeder Employee, Had Arrived in City in 1880

August Engstrom, Sr., 85, of 1023 Eleventh avenue East, a resident of Ashland for the past sixty years, died at his home on Sunday morning, following a long illness.

He was born September 30, 1854 in Motala, Sweden, and in 1880 emigrated to the United States, coming to Ashland.

Mr. Engstrom was married May 30, 1880 to Anna Amundson. He was employed as a carpenter for many years and his last work was at the John Schroeder Lumber Company's mill here. He retired 17 years ago.

Survivors are his wife, two daughters, Mrs. Leo Bord of Minneapolis, and Mrs. Mathew Carvander of Chicago; four sons, Thomas of Shanghai, China, and August, Jr., Hjalmer and Andrew of Ashland; thirteen grand-children, and one great-grandchild. A daughter, Emma, preceded her father in death in 1927.

Funeral services for Mr. Engstrom will be held Wednesday at 2:00 p. m. from the Nidaros Lutheran church. The Reverend John Houkum will officiate, and interment will be in Mt. Hope cemetery.

The body will be removed from the Solle Funeral Home to the Engstrom residence, Tuesday morning. It will lie in state there until Wednesday noon, when it will be removed to the church to lie in state until the hour of the service.

FIRE DESTROYS
ISLAND HOME

Flames Level Home of Coast Guard Commander at LaPointe

By Special Correspondent. LAPOINTE, Wis.—Flames of undetermined origin, discovered about 11:55 p. m., Saturday, completely destroyed a home near the north end of Madeline Island, owned by Hjalmer Wick, Deloit, and occupied by Coast Guard Commander Hublick, who brought the coast guard detail here. The Hublick family was spending the week end at their former home, Eagle Harbor, Mich., and Leo Kron, Leo Berg and a coast guard man first noticed the flames from the coast guard station at Kron's.

The building was an entire loss, as there is no fire-fighting apparatus on the island.

COMPLETE NEWS COVERAGE
of a New York Newspaper—Added to the
Local and Regional News—Thru These All-
Inclusive United Press Bulletins:U.S.-WORLD
BULLETINSNO CHANCE OF PEACE,
PARIS FEELS

PARIS, (UP)—A semi-official French source said today that "no mediation or peace offensive whatever its patronage, could be made with any chance of success."

NEAR DEATH IN POLITICAL
DUKE

JACKSON, Ky., (UP)—Fred Deaton, 27, unmarried son of the sheriff, feuding "Bloody Brethren" county, was reported in serious condition at a Lexington, Ky., hospital today with leg wounds inflicted during a pistol duel over political differences almost two years old.

His opponent, State Tax Collector Lewis Combs, 34, was dead. The two had met in front of the town postoffice and before police were aware of what was happening they had drawn pistols and begun firing at close range.

RED CROSS AID INCREASES
WASHINGTON, (UP)—The American Red Cross reported today that it is increasing the already considerable aid being given the wounded and homeless of Europe's warring nations.

The heaviest demand now is from Finland, where the Red Cross work complements that of the Finnish Relief fund headed by former President Hoover. Ambulances, medical supplies, clothing, tents and hospital equipment also are being sent to France, England and German-occupied Poland.

DISTRIBUTED COMMUNIST
LITERATURE, CHARGE

OTTAWA, (UP)—A soldier, a government employee and a reporter for a newspaper banned by the government were under arrest today on charges of distributing Communist literature on a dominion-wide basis, urging Canadians to withdraw from the war. Police charged that they were directed "by Moscow."

USE OF F. D. R.'S NAME
IN ILLINOIS CHALLENGED

CHICAGO, (UP)—Use of President Roosevelt's name on Illinois primary election ballots without a formal statement of candidacy was challenged today on the ground that such petitions would constitute a violation of election laws.

George S. Lavin, attorney and Republican candidate for Congressman-at-large, wrote in letters to the President and the state primary certifying board that Illinois statutes prohibited the use of any candidate's name on election ballots unless petitions for candidacy were accompanied by a sworn statement of intention.

2 MEN EXECUTED
Bellefonte, Pa., (UP)—Two men died in the electric chair at Rockview penitentiary today, one calmly, the other despairing and frightened.

A third man became his own executioner when he killed himself less than 48 hours before he was to suffer a legal death.

The man executed was Andrew Schurtz, 48, Shamokin, Pa., slayer of a WPA project foreman, and William Kelly, 34, Philadelphia negro, killer of a Philadelphia policeman. The man who committed suicide was William H. Yeager, 51, Montour county farmer, who shot to death a state policeman.

NO MORE "MASS GRAVES"
FOR GERMANY

BERLIN, (UP)—The dead of this war "will no longer be buried in mass graves." It was announced today. All of Germany's war dead will have individual graves "in pleasant country surroundings far from busy traffic." The announcement said that the bodies of Germans who fell in Polish territory which has not been annexed to the Reich will be "brought back to Germany."

SPENDS \$177 TO HELP END
THE WAR

SAN FRANCISCO, (UP)—George K. Pappas, who has watched the foreign situation and the telephone office today, because he spent \$177 to send Adolf Hitler and Joe

WIS.-MIDWEST
BULLETINSEX-CONGRESSMAN
COLLAPSES

MILWAUKEE, (UP)—Raymond J. Cannon, Milwaukee, who formerly represented Wisconsin's 4th district in Congress, collapsed in a tavern Saturday and was taken unconscious to Emergency hospital. His condition was said to be serious. Cannon was given a suspended sentence in district court on a drunkenness charge shortly before his collapse.

5 MORE COLONELS
MADISON, Wis., (UP)—Five more Colonels today joined the military staff of Gov. Julius F. Hell.

Four honorably appointed aldermen-camp by the governor, and one with full military status appointed to the staff by Adj. Gen. Ralph M. Emmell. Fred J. Koch, Milwaukee, was commissioned a Colonel and appointed to the Governor's staff by Emmell. Hell's honorary appointees included W. G. E. Walla, Chicago; George W. Leberman, Sheboygan; Mark Rhea Byers, Wausau; and Dr. Harry J. Heeb, Milwaukee.

8 OUT OF 9 DOLLARS' DEBT
IS FEDERAL

MADISON, Wis., (UP)—Federal borrowing accounts for eight out of every nine dollars of public debt owned by Wisconsin taxpayers, the Wisconsin Taxpayers' Alliance reported today.

"Total public indebtedness of the state of Wisconsin, including all local debt, is about \$151,000,000, while Wisconsin's share of the federal debt is almost eight times larger, or about \$1,152,000,000, making a total of \$1,303,000,000," the Alliance stated.

INDUSTRIALIST DIES

MILWAUKEE, (UP)—Funeral services will be held tomorrow for Arthur N. Rhoda, active Mason and assistant secretary of the Wisconsin-area Congress of Industrial Organizations.

OPPOSE HELLS "LITTLE
WAGNER" ACT

MILWAUKEE, (UP)—Repeal of the Hell administration labor laws and re-enactment of a "Little Wagner" act for Wisconsin were sought today by representatives of Milwaukee-area Congress of Industrial Organizations.

INTENT TO MURDER
IS CHARGED

BARRON, Wis., (UP)—Walter Stahl, 42, Campbells, today waited trial on a charge of assault with intent to commit murder in connection with the shooting last week. Mrs. Stahl is recovering from three bullet wounds in a Rice Lake hospital.

EMPLOYMENT HIGHER THAN
A YEAR AGO

MADISON, Wis., (UP)—Despite a decrease in factory employment in the state last month for the first time in 15 months, there still were 13 per cent more persons employed in factories in January of this year than a year ago, a report of the State Industrial Commission showed today.

F. T. A. TO STUDY
SAFEGUARDING "AMERICAN
GON WAY"

POND DU LAC, Wis., (UP)—The annual convention of the Wisconsin Congress of Parents and Teachers, to be held here April 23, 24 and 25, will discuss methods of "safeguarding the American way of life through everyday living."

Mrs. H. P. Stoll, Madison, state president said today.

"WET OR DRY"
QUESTIONNAIRE

MADISON, Wis., (UP)—Prompt response to a "wet and dry" questionnaire was asked of town, city and village officials today by John M. Smith, state treasurer. Treasurers of 993 of the state's 1,791 localities have not yet answered the inquiry, Smith said. Information requested seeks to determine how many localities are wet or dry, and to what extent. The compilation is in accord with a recent amendment

BODYGUARD
FOR PREMIER
OF SWEDEN

STOCKHOLM, Sweden, (UP)—Premier Per Albin Hansson has been provided with a bodyguard because of the intensity of feeling over the government's neutrality stance toward the Russo-Finnish war, it was disclosed today.

It was the third time since the World War that a Swedish premier had had a bodyguard.

Hansson has received so many threatening letters recently that police thought it advisable to assign two detectives to him. His home is watched day and night.

Last night Hansson defended the government's non-intervention policy. Sweden sought to avoid being drawn into war, he said, and to safeguard its freedom and independence. It had not yielded to pressure from any outside nation, he said, and to critics here he made it plain that the government intended to pursue its present course.

MANNERHEIM
THANKS SWEDES
AND NORWEGIANS

HELSINKI, (UP)—Mannerheim

Baron Carl Gustaf Emil von Mannerheim, in an order of the day to Swedish and Norwegian volunteers, Saturday expressed thanks for aid reaching Finland.

"In a serious time when destruction is threatening Finland the brave Swedish men who have unhesitatingly gone out to fight together with us in order to defend the freedom of the north," Mannerheim wrote.

"On many battlefields Finns and Swedes have been fighting side by side for our creed, inherited from our fathers, our many centuries old culture and our Nordic order and justice."

"To you, true Swedish men who left your homes and relatives in order to share with us the dangers and trials of warfare, I give the gratitude of the Finnish people for your noble help and in addition welcome you Swedish brothers into the files of the Finnish army."

"Norwegian brothers in arms: A battle now is being fought out on the soil of Finland but you who are close to us because of the ties of blood relationships dating back to an ancient time are now in the brotherhood of arms which ties your fate to ours. To us that is a guarantee that the whole north understands that the fight is for the defense of common ideals and the same way of living."

"Also to you brave Norwegian men I want to give the gratitude of the Finnish people for your help and welcome you into the ranks of the Finnish army. May the cause for which we fight be brought to final victory and may this victory bring to the nations of the north a happy future."

WELLES SEES
MUSSOLINI

ROME, (UP)—Sumner Welles, President Roosevelt's special envoy to Europe, conferred at Venice Palace for one hour with Premier Benito Mussolini late today.

BY EVERETT HOLLES

United Press Staff Correspondent. ROME, (UP)—Sumner Welles, President Roosevelt's special envoy to Europe, today started his delicate job of investigating the state of the war and the outlook for peace by conferring for 90 minutes with Count Galeazzo Ciano, foreign minister and son-in-law of Premier Benito Mussolini.

Myron C. Taylor, the President's special envoy to the Vatican, at the same time visited Cardinal Maglione, papal secretary of state, preparatory to presenting his credentials to the Pope tomorrow.

Welles saw Ciano at the Chigi Palace, the foreign office. He had driven to King Victor Emmanuel's Quirinal Palace to sign the royal visitors' book.

U. S. PI
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WASHINGTON, (UP)

domment of the Bermuda Pan American Airways' lantic route removed source of friction be United States and Great

The controversy over a surge of U. S. mail reach point last week when reported—but denied at on, Bermuda and London mail had been taken off at Bermuda by force of

Last night Pan Am ways announced that at 15 it would omit the Ber in flights from the Un to Europe. The announce no mention of the Ber inspection and said ell

Hitler
Thru in

MUNICH, (UP)—Fue

Hitler intimated to a audience of Nazi leado lowers here Saturday many has not yet occur territory in midde which she is entitled.

There still are se which Germany built is entitled to Lebensra live, the fuhrer said. Hitler said further t on aim is return of o

"We demand the colonies robbed from us (Austrian plutoarats," he Regarding Germany's aims, Hitler said "ce" was built by us, not by "Go did not create th England, alone," he thu

THE WATER
DIVERSION
FIGHT RENE

MILWAUKEE, (UP)

ters of the Great La association here, attorneys general from Minnesota, Ohio, Michigan and New York new a prolonged battle Supreme court at Was day.

The association off from a brief in which general urged the court Illinois petition seeking a decree limiting the water from Lake Michi cago to 1,500 cubic feet.

The brief was filed by Herbert H. Naufooks, assistant to the attorney, and formerly of the W attorney general's office. that Illinois' complaint, satisfactory conditions ext Chicago sanitary canal rose from failure to c with the Supreme cou 1930 and 1933.

The brief said that "imposed a duty upon its agent, the sanitary reduce progressively, times, the diversion of Lake Michigan, and co "construct and complet sewage treatment plant" "preclude any ground on the part of the stat its municipalities to th of the diversion of the

State's counsel emp the 1930 and 1933 decre complied with by Illi sanitary district "only to reduction in div have not been compl respect to the program, completion and adequate sewage treat for all of the sewage lary district of Chicag They denied the illi tion that because of a ing upward trend of Chicago's diversion c

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Exhibit 8

Summary of Witness Testimony

John Schroeder Lumber Company Wood Treatment Operations

John Selner (deceased)

Mr. Selner was interviewed by NSPW representatives on October 9, 1998, January 7, 1999 and his affidavit was secured on June 23, 1999. Mr. Selner was also interviewed by WDNR on July 28, 2000. Finally, to preserve Mr. Selner's testimony in anticipation of unavailability, Mr. Selner's deposition was taken on October 16, 2001 in the presence of representatives from the State of Wisconsin, Wisconsin Central and Soo Line. At every interview, Mr. Selner's recollections of wood treatment at the Schroeder Lumber property are consistently recalled and down to some striking detail. Copies of the interview summaries, affidavit and deposition transcript are attached at Tab A.

Mr. Selner was born on November 6, 1910. He was a lifelong resident of the City of Ashland and attended St. Agnes School. St. Agnes was at the site of the current "Our Lady of the Lake" school, at the top of the bluff just west of the NSPW Service Center. Mr. Selner played in the area of Schroeder Lumber's operations as an adolescent.

Mr. Selner's father worked at the Schroeder Mill and Selner would often bring lunch to his father. Mr. Selner recalled two creosote structures on the Schroeder property. Mr. Selner stated that when he was about 10-15 years old, he saw poles being treated at the Schroeder Mill by being dipped into a vat of creosote. Mr. Selner also saw railroad ties being dipped into an aboveground wooden box containing creosote. He recalled that the creosote appeared to be heated and that overhead cables were connected to the lumber products for purposes of dipping into the creosote. Once the ties were removed, they were allowed to drip dry on the ground stacked nearby. Mr. Selner recalled at his deposition that the creosote tanks were to the west of Prentice Avenue.

- Page 8, line 25: Page 9, lines 1-23.
 - A. They treated ties and the end of light poles and telephone poles and the long stuff.
 - Q. Did you see them do that?
 - A. Oh, yeah, sure.
 - Q. How did they do it? How did they treat the ties and the poles?
 - A. Some they dipped in a vat no longer than this room.
 - Q. Okay.
 - A. You see, then the whole works got treated then. Otherwise when it was light poles and some long, just the bottom end about, oh, maybe 12 feet or so.
 - Q. And do you know what they were dipping the ties into?
 - A. Creosote.
 - Q. How did you know it was creosote?
 - A. By the smell.
 - Q. What did it smell like?
 - A. Well, it burns your nostrils if you got too close and, oh, and it spilt (sic) all over. And when we got it on our shoes and you get home, or if you were going to school, we come in the classroom, we would get hell from the sister.
- Page 10, lines 1-25: Page 11, lines 1-7.
 - Q. What was the creosote in?

A. What was it in?
 Q. Yes.
 A. Well, you mean when they were dipping them?
 Q. Right.
 A. Well, that was a wooden box longer than this room. That's where they put the whole works in.
 Q. And did you actually see them dip the ties into that wooden box?
 A. Sure.
 Q. And how did they dip it in?
 A. Well, there was a crane there or whatever it was, a piece of machinery, and got a hold of them and put a bunch in there for a length of time. I don't know for how long, and then they would pick them up and let them drip, and then they put them on the side.
 Q. Did you actually see this happen?
 A. Yeah, sure.
 Q. How often?
 A. Well, whenever we would go down there.
 Q. How often would you go down there?
 A. Well, until we got called -- called off in school to stay away, you know, that our shoes were full of it.
 Q. How many times do you remember going down there and watching these ties being dipped into the wooden box.
 A. Oh, I don't know the number of times, 10, 15, 20.
 Q. How old were you when you saw this?
 A. Any where from 10, 13 years old.

- Page 23, lines 15-25; Page 24, line 1
 A. Um-hum, yes. You see, they had chains or --either chains or cables that would get around these ties or things that they wanted to dip, you know, and it wasn't easy putting -- and naturally it is so heavy that it would come up and spew over the side. And then after they set them there for a length of time, whatever that was, I don't recall anymore, then they would pick them out. These chains or cables were still connected and then they would pick them out and set them on the sides.

Gordon Parent

Mr. Parent was interviewed by NSPW on October 12, 1995, February 10, 1998 and September 3, 1998. He provided affidavits on October 12, 1995 and September 3, 1998. WDNR interviewed Mr. Parent on October 19, 1998. Additionally, Mr. Parent's recollections were preserved via deposition testimony on October 16, 2001 in the presence of representatives from the State of Wisconsin, Wisconsin Central and Soo Line. Copies of the interview summaries, affidavits and deposition transcript are attached at Tab B.

Like Mr. Selner, Mr. Parent is a life-long resident of the City of Ashland. As a child, Mr. Parent played on the Schroeder Lumber property. Mr. Parent recalled seeing a wood treatment vat in which railroad ties were soaked. The vat was made out of wood (consistent with Mr. Selner's recollection) and was located between the Pulp Hoist (near the end of Ellis Avenue) and the Schroeder Mill. Mr. Parent stated that the contents of the vat smelled like creosote. He recalled watching the wood being treated in the vat by Schroeder Lumber workers. They would put the ties in the creosote and lay them in a trough to soak. Then the wood was pulled out with pipe poles and scraped. He also recalled seeing piles of wood alongside the creosote pit. Mr. Parent later went to work at the wastewater treatment plant in 1952. He recalled that the creosote structure was gone but the residual creosote was still present in the ground at the Site.

- Page 12, lines 4-18.
 Q. Okay. Now did you ever see any treatment facility where those railroad ties were treated?
 A. Yes, they were. Yes, it was, I should say.
 Q. Where did you see that?
 A. That's in the same spot, of course. To say the least, they used to soak the ties in the vat which was made out of timber.
 Q. Did you see the vat?
 A. Yes, you could.
 Q. And how was it that you saw the vat?

- A. Well, as kids, of course, you wander around, and it was in the woods area. And in the meantime, like I say, the vat was a place where they took the ties from where they sawed them to put them in there to soak them in creosote.
- Page 13, lines 12-25: Page 14, lines 1-7.
 - Q. Ok. As you walk down Prentice Avenue [toward the north], was the creosote container on your left or right as you walk down Prentice Avenue?
 - A. It would be on the left [west] towards the lake.
 - Q. Ok. Now how big was this vat?
 - A. As I remember, I would say about 25 by 25 feet.
 - Q. What was it made of?
 - A. 3-inch planks: 3-inch hardwood plank.
 - Q. How close to did you get to it?
 - A. We used to go right up to it.
 - Q. Did you look inside?
 - A. Oh, very definitely. And, of course, if you touched it, the creosote would get on your hands or whatever and it would burn you very severely.
 - Q. How did you know it was creosote?
 - A. Because it smelled like creosote.
 - Q. What did it smell like?
 - A. Pretty potent material. Like tar or worse than tar from that standpoint.
 - Q. What color was it?
 - A. Black, black.
 - Page 14, lines 21-25: Page 15, lines 1-12.
 - Q. Now did you ever watch wood being treated in that vat?
 - A. Yes, we did.
 - Q. Describe to me what you saw.
 - A. Well, at the time they would push the ties in on a, in a kind of a trough up there, and then they would just lay them in the trough from the standpoint of soaking or taking up space in there as well as the creosote covering them.
 - Q. Did you ever see them being taken out?
 - A. Yes, I did.
 - Q. How did they do that?
 - A. And at the time they pulled them out with pipe poles, which is a pole with a hook on the end. And then they would take a paddle and scrape them off and put them in a pile which was alongside of it.
 - Page 18, lines 15-20.
 - Q. How sure are you, Mr. Parent, that you saw these vats with the creosote in them?
 - A. I am sorry.
 - Q. How sure are you that you saw the vats with the creosote?
 - A. Well, as sure as I see you.
 - Page 35, lines 8-25: Page 36, lines 1-9.
 - Q. Let me back up. What I am just trying to understand is: is it fair for me to understand, Mr. Parent, that at one time there was a structure where this creosote was in, and then over time the structure deteriorated and there was nothing left?
 - A. Yes.
 - Q. Ok. I want to talk about the time when there actually was a structure. Can you just describe to me as best you can the dimensions and the material of that structure?
 - A. Well, it was made out of planks. And like I say it was about 25 feet by – oh, it is hard to say in dimensions as far as seeing it as a kid, but um –
 - Q. How high was it?
 - A. I would say about 3 feet high; in other words, the height of this table or thereabouts.
 - Q. Ok. How sure are you that you saw that creosote structure?
 - A. Like I see you.
 - Q. You see me?
 - A. And I've seen the structure at that time. But, again, deterioration over the years. I can't tell you what happened to the structure.
 - Q. That's fine.
 - A. It was a good size structure.

Mr. Parent distinguished the material he observed in the structure from raw tar.

- Page 51 lines, 6-18.
 - Q. I think that you started to make some sort of distinction between creosote and tar.
 - A. Well, there is a definite difference.
 - Q. Will you describe that for me?

A. Well, creosote was made to absorb into wood as a preservative. And, of course, tar was made to lay down asphalt on the street, I guess is as good a reference as I know.
Q. And what would you say was in the tar pit that you were talking about earlier?
A. Creosote and I would say that would be for preservative of the log, or ties in this particular case.

Tom Roy (deceased)

NSPW interviewed and secured Mr. Roy's affidavit on June 22, 1999, a copy of which is attached at Tab C. Mr. Roy was born on June 12, 1916 and was a life long resident of Ashland. Like many of the other witnesses, he attended St. Agnes School (located where the current "Our Lady of the Lake" school is today) as a boy. He used to play in the area of the Schroeder Lumber property. Mr. Roy witnessed Schroeder Lumber employees dipping railroad ties into an aboveground structure when he was approximately 10 to 13 years old. Like other eye witnesses, he recalled that the structure was oblong shaped, had wooden sides and that Schroeder employees used an overhead pulley system to lower ties into the structure. When the Schroeder employees lifted the ties out of the structure, the ties were covered with creosote. Mr. Roy stated that the structure was located west of Prentice Avenue near the now former wastewater treatment plant building.

Frank E. Kucinski

Mr. Kucinski was interviewed by NSPW representatives on October 9, 1998 and he provided an affidavit that same day. Mr. Kucinski also provided deposition testimony on both October 16, 2001 (in a deposition also attended by representatives of the State of Wisconsin, Wisconsin Central and Soo Line) and on October 8, 2003, the latter in connection with the case captioned *George F. Grosjean, et al. v. NSPW*, Ashland County Cir. Court Case No. 02-CV-150. Copies of Mr. Kucinski's affidavit and deposition transcripts are attached at Tab D.

Born in Ashland on October 10, 1918, Mr. Kucinski grew up in Ashland and played and fished near the sawmill property at the Lakefront while Schroeder Lumber was still in operation. Mr. Kucinski recalled a creosote pond just south of the former WWTP where other witnesses recalled the same feature. Mr. Kucinski identified the pond as being south of the wastewater treatment plant and north of the railroad track. Mr. Kucinski was about 10 years old at the time of these recollections. He recalled that creosoted railroad ties were stacked along the railroad track and rolled onto flat cars for shipment off-site. He saw blackened railroad ties stacked along the railroad track not far from the creosote pond.

- Page 11, lines 15-22 (10/8/03 deposition).
 - Q. The areas where you would see these stacked railroad ties, would that be then put on to the railcars do you recall?
 - A. Yeah, I imagine they load them on the flat cars then and ship them out to wherever they were building railroads. All the ties were creosoted.
 - Q. Were they creosoted from that pond?
 - A. Well yeah.
- Page 10, lines 20-25 (10/16/01 deposition).
 - Q. Did you ever see a tank or a structure with creosote in it?
 - A. There was a little pond over here where they used to dip them logs and then they stacked them along this railroad track and roll them on the flat cars.

- Page 14, lines 9-15 (10/16/01 deposition).
 - Q. Ok. How sure are you, Mr. Kucinski, that you saw the pile of railroad ties that were black that were stacked by the railroad track?
 - A. What is that?
 - Q. How sure were you that you saw the --.
 - A. As sure as I can remember, I can still picture them there.

Recollections of Creosote/Coal Tar Pit

Ray Parent (deceased)

Ray Parent's, the older brother of Gordon Parent, recollections were preserved via deposition testimony on October 16, 2001 in the presence of representatives from the State of Wisconsin, Wisconsin Central and Soo Line. A copy of Mr. Parent's deposition transcript is attached at Tab E. Like his younger brother, Ray is a life-long resident of the City of Ashland and was born on March 1, 1927. During his late teens, Mr. Parent worked at the Pulp Hoist near the Schroeder Mill in the 1940s. Mr. Parent recalled the presence of a large creosote pond on the Schroeder property in an area between the wastewater treatment plant and the railroad spur. See, Page 10, lines 6-24. Mr. Parent recalled the creosote pond being approximately 25' wide and 80' long. See, Page 11, lines 12-14.

Mr. Parent also recalled the presence of an elongated creosote treating structure (up to 16-feet long) for the treatment of larger poles. Consistent with the recollections of Mr. Selner, Mr. Parent recalled this structure a bit east of the location of the former wastewater treatment plant. See, Page 27, lines 3-25. Mr. Parent recalls that this structure was filled via a wooden tank car on a tram system. See, Page 28, lines 7-25; Page 29, lines 1-25; Page 30, lines 1-4.

Joseph F. Kabasa, Jr.

NSPW secured an affidavit from Mr. Kabasa on September 21, 1995. His deposition was taken in the *Grosjean* case on October 8, 2003. Copies of Mr. Kabasa's affidavit and deposition transcript are attached at Tab F. Mr. Kabasa was born in 1939 and he is a life-long resident of Ashland. As a boy, Mr. Kabasa lived at 215 North Prentice Avenue, on the ridge of the bluff overlooking Kreher Park. He played in the Kreher Park area when he was an adolescent from the late 1940s to early 1950s, after Schroeder Lumber's activities ceased. Mr. Kabasa remembers the residuals of a creosote pond located on the ground in the area between the railroad track and the wastewater treatment plant, just west of his house. It was a tar pit with no boards or enclosures and when one compares Mr. Kabasa's recollections with the earlier recollections of Messrs. Selner, Parent, Roy and Kucinski the abandoning of the wooden structure caused the material to spread.

- Page 5, lines 7-23.
 - Q. Mr. Kabasa, do you remember ever if there was a creosote pond in the area where the Schroeder Lumber Company was?
 - A. Oh, yes, very well.
 - Q. Did you see that?
 - A. Yes, I seen it.
 - Q. Was that boarded on the sides? Was it discreet , or was it simply in the ground?

A. It was on the ground. It was just flat on the ground. I mean it wasn't any higher than the greenery on either side of it, but it was just black. Must have been, I don't know, probably 30 yards wide and the full length. There was another set of tracks on there, it went from that side right to the road. Right to that fire hydrant. I don't know if the hydrant is still there or not, but it was pretty much pretty close to probably a block long.

Donald R. Larson

Mr. Larson was deposed on December 13, 2005. Mr. Larson is a 72 year old life-long resident of the City of Ashland. Copies of Mr. Larson's deposition transcript are attached at Tab G. Mr. Larson's father worked for the Consolidated Paper Company which owned and operated the pulp hoist located just west of the Schroeder Lumber operation. Mr. Larson recalled the "tar pit" associated with Schroeder's operations.

- Page 6-7 (0014), lines 18-25 (0015), lines 1-13.

Q. Do you have any knowledge regarding the Ashland MGP operations?

A. As far as the tar pits and that?

Q. Yes, or any knowledge whatsoever.

A. As far as MGP, no, I don't, but I do remember the tar pits.

Q. When you say do you remember the tar pits, can you explain that for me?

A. Well, my father worked for Consolidated Paper Company. They used to raft logs in here and they loaded them out into train cars that were shipped to Consolidated for making paper. That was located approximately one block west of the tar pits down there.

Q. And when you say "the tar pits down there" - -

A. Just one pit is what there was.

Q. And where exactly was the tar pit.

A. That would be approximately one block east of Consolidated Paper which is located where the -- right now where the sailboats and everything, the marina is now.

After indicating the approximate location of the "tar pit" in the same general location as indicated by other witnesses, Mr. Larson's testimony continued:

- Page 8 (0019), lines 4-16.

Q. Thank you, Mr. Larson. You can hold on to that. With respect to the tar pit, did you ever go down and see the tar pit yourself?

A. Well, I passed it numerous times. There used to be a road that could go down to -- down pasted that over to Consolidated where the workers -- that's the only way you could drive down there. I used to ride with my dad down there, and plus I used to walk down the railroad tracks a lot to get there, because if he got out of bed in the morning and went to work and he was out of snuff, I would have to go by him snuff and take it down, otherwise he was uglier than hell. ...

- Page 9 (0020), lines 19-24.

Q. Would that have been the earliest time you would have seen the tar pit, would have been the early '40s?

A. No. It would have been before that, because I used to sit on my dad's lap on the Model T and steer it and we would go down there. ...

- Page 9 (0021), lines 11-25, (0022) 1-13.

Q. When you first saw the tar pit when you estimate around 1940, how big was the tar pit?

A. To me, thinking back it looks like it could have probably been 24-foot wide by probably a depth of 30-feet or 40-feet long.

Q. And was it a free-standing structure or was it just a pit in the ground?

A. It was a pit. If I can recall right it seemed like there was pilings driven on one side and then there was like it would be a timber mounted along the side. It almost looked like at one time it could have been a part of a dock. It could have been something, too, that the lumber company might have set their logs in, too, you know, for tar.

Q. When you said there were pilings on the one side of the tar pit, do you mean wood pilings?

A. That's what you would see, yeah, it looked like there was posts for pilings on there.

Q. And were these just wood scraps or wood chips? How would you describe it?

A. It looked like it was manmade.
Q. A manmade pile of just scrap or --
A. No, not piles. Pillings is when they drive them in -- posts in the ground and then they mount a timber along side of it.
Q. And that was just one side of the tar pit?
A. As far as I can remember.

Kenneth R. Veno

NSPW representatives secured Mr. Veno's affidavit on September 21, 1995. In connection with the Grosjean case, Mr. Veno gave his deposition on October 8, 2003. Copies of both are attached at Tab H. Mr. Veno was born on December 26, 1941, attended St. Agnes School and played near the wastewater treatment plant as a young person in the 1940s and 1950s. Mr. Veno recalls a tar pit located just to the south of the wastewater treatment plant and recalled from his father that this pit was used to dip lumber. (Page 8, lines 17-25; Page 9, line 1) Mr. Veno stated that the tar pit was approximately 50' x 100' and was flush on the ground. (Page 10, line 4-12)

Mary Kabasa (deceased)

Ms. Kabasa provided an affidavit on September 21, 1995, a copy of which is attached at Tab I. She is a long time resident of Ashland and grew up four blocks from Kreher Park. In 1942, she moved to 215 Prentice Avenue located on the ridge overlooking Kreher Park. Ms. Kabasa recalled the Schroeder Lumber Company operations and recalled railroad ties on the property which appeared to be already blackened. She also recalled an area of coal tar on the property. Her sons would play in the area of the coal tar and would come home with tar all over them. She recalled that the coal tar area was not very visible in the 1940s because it had become overgrown.

John Walters (deceased)

Mr. Walters provided an affidavit concerning his recollections on September 20, 1995, a copy of which is attached at Tab J. Mr. Walters is a former Consolidated Paper Company employee and local historian. He recalled a pond of coal tar, or tar-like substance located south of the former wastewater treatment plant.

Eugene Boyle

On September 20, 1995, Mr. Boyle provided an affidavit (copy attached at Tab K) describing his recollections of the area. Mr. Boyle used to play on the Schroeder Lumber Company property from 1937-1945. He recalled that in the early 1940s, his brother fell into a tar pit which was located south of the wastewater treatment plant and north of the railroad tracks. He recalled that the tar pit was about 3-4 feet deep. He stated that his father had to use kerosene to clean the tar off his brother.

Thomas W. Nelson

On September 21, 1995, Mr. Nelson provided in an affidavit (copy attached at Tab L) describing his recollections of the area. Mr. Nelson worked as a surveyor in the area from 1938 onward. Mr. Nelson recalled a creosote pit area on the Schroeder Lumber Company that he believed was used for treating railroad ties.

City of Ashland Conduct at Kreher Park (i.e. waste disposal)

Gordon Parent (see Tab B)

Mr. Parent began working at the City's WWTP in 1952, just after its construction and indeed prior to the plant's full operation. During Mr. Parent's deposition, he indicated the presence of a pipe outfalling to the bay designed to drain the area he had previously identified as hosting the Schroeder Lumber wood treatment operations.

- Page 29 lines, 11-25: Page 30, lines 1-20.
 - Q. And you said there were some pipes that were underneath the wastewater treatment plant, some of the old Schroeder pipes?
 - A. Yes.
 - Q. Any of those lead into the Lake?
 - A. No. Not at that time, no.
 - Q. Was there another time when some pipes lead to the Lake?
 - A. The only pipe that I remember as a kid was right about in here. (indicating)
 - Q. Ok. I want you to take this marker and just draw a little pipe in the area that you remember it being.
 - A. Sure you do. And I am going according to the area where the plant was. I would say that that pipe went into here. (indicating)
 - Q. Ok.
 - A. It came out just about on this corner as we know it today. (indicating)
 - Q. Ok. Can you put the letter "A" there please?
 - A. (witness complies)
 - Q. Now just because I have to talk to make sure that this record sees it, what you have done, Mr. Parent, is you have made a line and a letter "A" on the aerial Exhibit 2, Exhibit No. 2. Now is that where the pipe went into the Lake?
 - A. I would say this is where the pipe went into the Lake, just off the plant itself.
 - Q. Ok.
 - A. Now, it was only a small pipe. It was only to drain this area here. (indicating)
 - Q. Ok. Why don't you put an "X" in the area that you think was being drained?
 - A. This area right here. (indicating)

This recollection and alignment of the pipe is entirely consistent with the Greeley & Hanson Engineering drawings mentioned in the text of this Report and the discussion contained in Section 4. Further, Mr. Parent recalled its dimensions and materials exactly as is represented in the Greeley & Hanson drawings:

- Page 48, lines 1-11.
 - Q. I want to go back just one moment to the aerial photograph attached to Exhibit No. 2, a line mark with the letter "A," that's the pipe into the Lake.
 - A. Yes.
 - Q. Do you know how big that was?
 - A. I was just going to say -- what happened to my pencil -- I would say this pipe was about 12-inches, 12-inch diameter.
 - Q. Do you know what it was made of?
 - A. Corrugated pipe.

Mr. Parent also recalled the City's use of the Lakefront area for waste disposal.

- Page 31, lines 8-18.
 - A. Then, again, and I don't know who did it, somebody drove pylon (sic) [pilings] out here all along the shoulder to retain the Lake level.
 - Q. You have now drawn four circles on the map attached to Exhibit No. 2. Those are pylons?
 - A. They were pylons, there were rows of them. I am talking a row of them, not rows, a row, and I am saying 10 inches apart. And then what they did again, and I don't know who did that at the time, they used the garbage or the City Landfill and this is where they dumped it.

Ray Parent (see Tab E)

Mr. Parent recalled seeing the City of Ashland trucks disposing garbage and old car bodies in the Lakefront area near Kreher Park. When he was a kid, he would go through the garbage for scrap iron.

- Page 20, lines 20-25: Page 21, lines 1-4.
 - Q. Okay. And you said that the area between the pylons --
 - A. And the road.
 - Q. -- and the road on Exhibit 1 was filled in?
 - A. Yeah, it was filled in with garbage, garbage and tin cans and old car bodies and all of that stuff.
 - Q. Do you know who put those tin can and car bodies in there?
 - A. The City of Ashland did.
- Page 21, lines 22-25.
 - Q. Okay. The City of Ashland used the area between the road and the pylons as a dump?
 - A. Yeah, that's what I would say that they were doing.
- Page 22, lines 5-12.
 - Q. Did you see trucks come in and deposit the garbage?
 - A. Yes, sure.
 - Q. Were they city trucks?
 - A. They were city trucks, yes.
 - Q. Okay.
 - A. When we were kids, we used to go down and pick out the good stuff out of that stuff.
- Page 24, lines 1-5.
 - Q. And what kinds of trash or dump stuff did you see there?
 - A. Well, old tin cans and old car bodies and any kind of scrap, you know, like they figured was going to stay there but didn't. It washed away.

Mr. Parent recalled in his deposition that surface water runoff and creosote materials would run over the road fronting the Lakefront (i.e., between the Schroeder Lumber facility and the pulp hoist to the west) and enter the Lake. He indicated that this condition changed when a culvert was installed beneath the road to drain the wood treatment residuals to the Lake. We believe the City installed this culvert at the time of the construction of the wastewater treatment plant in the early 1950s and Mr. Parent's testimony corroborates that timeline.

- Page 18, lines 1-22.
 - Q. I want to go back to the road here that you said you drove across and got your wheels full of creosote.
 - A. Yeah.
 - Q. Was that ever fixed?
 - A. It was fixed when they put the sewage plant in. That was that way for many, many years. I think back in the '50s yet it was still all sawdust road.
 - Q. Ok.
 - A. You know, right down in here one time they brought logs in and they sawed logs there and had a sawdust pile, a mountain of sawdust, we used to go around that. But finally it all washed out into the Lake, all of that stuff did.
 - Q. Now, was there a time to your knowledge that a culvert was put underneath the road to drain?

A. Yeah, they put a – someone put a drain there one time. Oh, I don't know what, that would have been after I came back from the service, so that would be like in the oh, I suppose '48, '49 around in there.

William Pete Carrington

Mr. Carrington provided his recollections in an affidavit on September 20, 1995 and deposition testimony provided on October 8, 2003 and December 13, 2005. Copies are attached at Tab M. Mr. Carrington worked as a project engineer for Wilhem Engineering and worked on the City of Ashland's extension of Ellis Avenue in the mid-1980s. Ellis Avenue runs north/south at the far west end of the site adjacent to the Chequamegon Hotel. The purpose of the project was to extend Ellis Avenue north toward the marina point. Mr. Carrington recalls that, during the excavation, a large area of thick, heavy, creosote-like material was encountered at the bottom of the hill by the railroad tracks. Carrington recalled that the City loaded this material onto City dump trucks and transported and dumped the waste south of the former wastewater treatment plant at the site.

2003 Deposition:

- Page 10, lines 9-18.
 - Q. And what was done about that material when you encountered that in working on the extension?
 - A. Well, it seems to me the contractor didn't want to deal with it. I don't know what they were doing with the clay, but they didn't want that other stuff with the clay so they told the City that they had to deal with it and the City, I believe the contractor loaded the City dump trucks and they trucked it around and dumped it, it would be south of the sewage treatment plant.
- Page 12, line 24-25: Page 13, lines 1-2.
 - Q. Is it your understanding that this material was done by the City? In other words, moved out of there by the City?
 - A. Yeah, right.
- Page 18, lines 14-19.
 - Q. I just had a question about the amount of material. You said it was two dump trucks; are they filled with this dark material.
 - A. Yeah. They were loaded trucks, so it was at least two loads and it seems to me they were there for awhile. They made more than one round.

2005 Deposition:

- Page 8 (0018), lines 18-25; (0019) 1-12.
 - Q. And if you can continue explaining to me -- once they were excavating the area, if you could describe for me what was found?
 - A. Well, they come (sic) down across the tracks, when they got to the north of the tracks, the railroad tracks, there was black, tarry smelly stuff that started showing up, and then I remember they stopped digging and got the City down there. It was something to do about not putting that with the rest of the clay, where the clay was going. They were going to haul that elsewhere and the City was going to do the hauling.
 - Q. Could you see this black substance prior to excavating in the area?
 - A. Yeah, when I was surveying along that ditchline along the railroad tracks, the north side of the railroad tracks, it was kind of seeping into the ditch. I had a pair of waders on, and as I had crossed this ditch, you know, it was ongoing. This stuff would get on these waders. ...
- Page 8 (0019) lines 23-25, (0020) 1-4.
 - Q. Can you describe for me what the black substance looked like?
 - A. Well, it was a black kind of thicker, almost like molasses, and it had a real distinct smell.
 - Q. What did it smell like?
 - A. Maybe creosote, railroad ties, something like that. ...

- Page 10 (0023) lines 5-10.
 - Q. Can you describe for me what happened after the material was discovered?
 - A. Well, it was like an hour and one-half or so, a couple hours later they went back to work and a couple of City of Ashland trucks showed up and the black stuff was loaded into the trucks. ...
- Page 10 (0024) lines 20-23.
 - Q. And then where did the trucks take the material?
 - A. To this areas that's north or south of the old sewage treatment plant along side the railroad tracks there. ...
- Page 11 (0025) lines 9-18.
 - Q. Do you know approximately how long it took to remove the black substance?
 - A. It seems to me it started in the afternoon and went on, you know, through that days work and then part of the next day, so like all together maybe like one day or a little less than one day.
 - Q. And how many trucks were used to remove material?
 - A. I can only remember a couple of City of Ashland Trucks. ...
- Page 11 (0026) lines 14-16.
 - Q. Do you know if NSP or Xcel Energy was involved at all with the removal of the black substance?
 - A. I don't think so. ...
- Page 25 (0061) lines 23-25, (0062) lines 1-2.
 - Q. And you said you were familiar with peat in your earlier testimony? Did the black substance that you observed during the Ellis Avenue extension look or smell the same as peat?
 - A. No.

Joseph Kabasa, Jr. (see Tab F)

As a boy, Mr. Kabasa lived at 215 North Prentice Avenue, on the ridge of the bluff overlooking Kreher Park. Mr. Kabasa recalled the City of Ashland dumping its municipal waste directly on Kreher Park along the shore. Mr. Kabasa stated that the City dumped garbage, bottles, glass, cans and demolition debris at the park.

- Page 17, lines 11-19:
 - A. I'd say, best as I can remember it, 9 or 10 years old, I would say about 15 feet, or 20 feet out from the shoreline there was piling every -- well, they were real close together. You could -- we used to walk on the top of them because they were pretty even, you know. There- was a row along there and they dumped -- the City used to pick up garbage at that -- in that period the City picked it up and it was dumped right there, Everything.
- Page 18, lines 5-13:
 - Q. What sorts of materials do you recall having been dumped by the City of Ashland in this area depicted "dump area"?
 - A. Everything they took out of the garbage cans. There was no recycling or nothing then. Everything was put in one can. Everything. Glass, bottles, cans, you know, and kitchen waste. Everything they took out of -- everything that would be put in the garbage.
- Page 22, lines 16-19:
 - Q. And they dumped right in the water, or right on the beach?
 - A. They backed up in the water. Right in the water.
- Page 27, lines 14-19:
 - A. They dumped oh, several things. A lot of the big St. Joseph's Hospital, all that was put down there. And there was a great big lumber -- Bay Shore Lumber Company, a great big building that was filled down there, that they used to landfill, and they just built the whole thing up.

Ron Nye

Mr. Nye provided his recollections of the area in a September 20, 1995 affidavit. A copy of which is attached at Tab N. Mr. Nye attended elementary and junior high school at St. Agnes School which is located adjacent to Kreher Park, atop the bluff. He recalls playing with friends at Kreher Park during the late 1940s and 1950s. He states that children used to play "King of the Hill" on the piles of waste, which he recalls being routinely disposed of in an area just to the south of the former WWTP building. He also remembers trucks disposing of a variety of products in this area such as stone, brick, masonry block, iron, cinders, demolition debris and roofing materials. Periodically, when the mound of waste was leveled off, the kids used to play touch football in the area; however, he said they could not play tackle football because of the debris protruding from the area. As recently as 1970, Mr. Nye said he recalled the disposal of building waste at Kreher Park following the demolition of St. Joseph's Hospital.

Ken Veno (see Tab H)

Mr. Veno attended St. Agnes School. He recalls playing, during the late 1940s and early 1950s, on the piles of waste disposed of at the Site. He recalls those waste piles being located on the Site. He recalled a wide variety of demolition debris being disposed, including roofing materials and cinders. He said the waste piles were rat infested (suggesting the presence of putrescible waste) and they would shoot rats with BB guns and rocks when they were kids.

- Deposition Page 6, lines 17-22:
 - A. There was garbage down there where people dumped garbage, all along there, and there was like old houses, old buildings they used to dump down there; brush. We used to go down there with our BB guns and rocks and shoot big rats and everything down there, you know.
- Deposition Page 7, lines 10-25:
 - Q. And the debris that went in there, is it dump material picked up by City dump trucks, or was it debris from various buildings?
 - A. Various buildings and different people that dumped their garbage down there right over the hill, you know, and bricks and everything. Debris, like old brick buildings and everything they would tear down, and brush. There was quite a bit of garbage down there at that time I remember.
 - Q. Would the City use that as a dumping area?
 - A. I think at times they did.
 - Q. Would people go to the very top of the bluff and simply back up pickups or any other conveyance they had and let the materials flow down the hill to the area of the dump?
 - A. Yes, I remember that.

John Walters (see Tab J)

Mr. Walters recalled that the Site was used as a municipal dump. He stated that city residents were allowed to dispose household wastes in an area just southeast of the former Consolidated Paper dock.

Railroad Activities

Fred Kovach (deceased)

In connection with the Grosjean case, Mr. Kovach gave his deposition on October 8, 2003, a copy of which is attached at Tab O. Mr. Kovach provided an Affidavit dated September 20, 1995 which is also attached at Tab O. Mr. Kovach grew up in Ashland and went to the St. Agnes School. He lived by the lake and as a boy, he used to go to the Kreher Park area to go swimming and fishing. Mr. Kovach recalled a tanker that was on the railroad spur all the time. (Page 7, lines 16-20) Mr. Kovach recalled seeing oil on the side of the tanker car. (Page 14, lines 3-21) The railroad spur was located in the open field from the wastewater treatment plant by the embankment. (Page 15, line 7-9) Mr. Kovach recalled that there was a platform beyond the tanker car and pipes would be connected to the tanker car. Mr. Kovach also stated that he saw the Soo Line bring and remove the tanker.

■ Page 24, lines 2-6:

A. I saw the tanker and I knew they were emptying it and that because I used to see the Soo Line come in with it all the time. Not all the time, but once in awhile I would see them pull it on and remove it.

Joseph Kabasa, Jr. (see Tab F)

As a boy, Mr. Kabasa lived at 215 North Prentice Avenue, on the ridge of the bluff overlooking Kreher Park. He played in the Kreher Park area when he was a kid from the late 1940s to early 1950s. Mr. Kabasa recalled a tank car on the tracks all the time near the tar pit area that was hooked up to some plumbing. During all the years he played at the park, he recalled the tank car was always there. (Page 9 lines 6-21)

Ray Parent (see Tab E)

Ray Parent recalled seeing a railroad car sitting on the railroad tracks. He stated he believed that creosote was pumped from the “coal plant” into the rail car. He recalled walking in the area and seeing the railroad car overfilled and the material running into the coal tar pond. (Page 14-15)

John Walters (see Tab J)

Mr. Walters believed that railroad cars would dump tar waste and rolls of tar in the area south of the wastewater treatment plant. He recalled that oftentimes railroad cars arrived at the wood pulp dock to pick up loads of pulp wood and would empty debris and clean out railroad cars from previous trips right along the track to make room for their new load. Mr. Walters recalled seeing on numerous occasions an oil blackened tanker car sitting on the tracks just below Third Avenue near the former “seep” area.

Thomas Nelson (see Tab L)

Mr. Nelson recalled that on numerous occasions the railroad dumped oil, coal and other materials all over the shoreline area where their tracks ran.

Mary Kabasa (see Tab I)

Ms. Kabasa recalled a railroad spur off the main line which ran just east of the coal tar area. She also recalled that rail cars drained oil in the coal tar area.

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A

STATE OF WISCONSIN

CIRCUIT COURT

ASHLAND COUNTY

NORTHERN STATES POWER CO., d/b/a
Xcel Energy, Inc.

Case No. 01-CV-76

DEPOSITION OF JOHN SELNER

Having been taken on the 16th day of October, 2001, at
Northern States Power, 301 East Lake Shore Drive,
Ashland, Wisconsin, 54806, at or about 9:15 a.m.

APPEARANCES:

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1 Ashland, Wisconsin.
2 Tuesday, October 16, 2001 - 9:15 a.m.
3 (Selner Exhibit No. 1 was marked for
4 identification by the Reporter.)
5 COURT REPORTER: Raise your right hand,
6 please. Do you solemnly swear that the
7 testimony you shall give in this matter shall be
8 the truth, the whole truth, and nothing but the
9 truth?
10 MR. SELNER: I do.
11 JOHN SELNER
12 HAVING BEEN FIRST DULY SWORN, TESTIFIED:
13 EXAMINATION
14 BY MR. FURLOW:
15 Q Mr. Selner, my name is --
16 A John.
17 Q John Selner, John, okay. My name is Jon Furlow..
18 A I am still an old bachelor.
19 Q Okay.
20 A I'll be 91 in a few weeks.
21 Q Okay. John, my name is Jon Furlow; I am a
22 lawyer. I represent NSP and I am going to ask
23 you some questions today about Schroeder Lumber
24 and some activities down at that area, okay?
25 A Uh-hum.

1 Q Have you had your deposition taken before?
2 A No.
3 Q Okay. I'll ask you questions; give me your
4 answers. If you don't understand a question,
5 just let me know and I'll try to rephrase it.
6 A Right.
7 Q And you have to speak up audibly; so answer yes
8 or no or explain. Nods of the head and things
9 like that don't appear; do you understand?
10 A I am usually talking too loud.
11 Q Okay. Well, that brings me to the next one. I
12 usually talk too low. So if you don't hear me,
13 just let me know and I will speak up a little
14 bit, okay?
15 A Right.
16 Q Okay. State your name for us, please.
17 A John Mathia Selner.
18 Q Where do you live?
19 A 603 12th Avenue East.
20 Q Where is that?
21 A Last house on 12th Avenue on the right-hand
22 side.
23 Q And what city is that in?
24 A Right here in Ashland.
25 Q How old are you now?

1 A I am 90. I'll be 91 in -- well, on November 6,
2 in a few weeks.

3 Q In a few weeks. I should have brought a
4 birthday cake.

5 How long have you lived in Ashland,
6 Mr. Selner?

7 A All but four years. I was in the Army and then
8 a few years I was in -- oh, no, in the Army -- I
9 was one year down at Stout going to school, and
10 then four years that I was in the Army.

11 Q Okay. Do you remember what year it was that you
12 were at Stout?

13 A Oh, '32 to '33. You know, that is school year.

14 Q And when were you in the Army, what years?

15 A '42 until they got rid of me.

16 Q Okay.

17 A About four years later.

18 Q What branch of the Army were you in?

19 A Air Force.

20 Q Now, I want to go back to a company called
21 Schroeder Lumber.

22 A Oh, yeah.

23 Q Do you remember that company?

24 A Oh, yes. It took in the biggest part of the bay
25 front.

1 Q And how is that that you remember Schroeder
2 Lumber?
3 A I carried my dad's lunch, dinner, down there to
4 him. And then I got to know each time you take
5 his dinner you go to different places. And I
6 got to know the lumber piles and the kind of
7 lumber and all of that kind of junk that they
8 would have down there.
9 Q How old were you when you carried your dinner to
10 your dad at Schroeder?
11 A 12, 13, 14, 15, until I got out of grade school.
12 Q Did your father work at Schroeder Lumber?
13 A Yes, he was stationary fireman.
14 Q What does a stationary fireman do there?
15 A Well, he kept the furnace going and had steam so
16 they could operate their rest of the mill.
17 Q Did you go to a school called St. Agnes?
18 A Right.
19 Q Where is that? J
20 A It is right over here. (Indicating)
21 Q Is that close to Schroeder Lumber?
22 A Right over there. (Indicating)
23 Q Okay. The record doesn't show pointing.
24 A It is in that direction. (Indicating)
25 Q All right. Can you describe to me how close St.

1 Agnes School was to Schroeder Lumber Company?

2 A A block to the hill and then the railroad tracks

3 down at the bottom. And then the mill took in

4 that whole front, the whole works.

5 Q Is that known as Kreher Park today?

6 A Schroeder Park?

7 Q Kreher Park.

8 A I believe so. I am not sure, but I believe

9 that's what it is called.

10 Q Okay. And when you took your dad dinner at

11 Schroeder Lumber, did you see the operations?

12 A Yes, sure.

13 Q Did you see railroad ties?

14 A Railroad tracks?

15 Q Railroad ties.

16 A Oh, that was towards the Soo Line Oredock more

17 rather than the main sawmill where the -- or

18 the, you know, where they saw the logs. It

19 would be the big logs that were up about that

20 high. (Indicating)

21 Q Do you know whether any of the lumber was

22 treated at Schroeder Lumber?

23 A Not until a few years later.

24 Q Explain.

25 A They treated ties and the end of light poles and

1 telephone poles and the long stuff.

2 Q Did you see them do that?

3 A Oh, yeah, sure.

4 Q How did they do it? How did they treat the ties

5 and the poles?

6 A Some they dipped in a vat no longer than this

7 room.

8 Q Okay.

9 A You see, then the whole works got treated then.

10 Otherwise when it was light poles and some long,

11 just the bottom end about, oh, maybe 12 feet or

12 so.

13 Q And do you know what they were dipping the ties

14 into?

15 A Creosote.

16 Q How did you know it was creosote?

17 A By the smell.

18 Q What did it smell like?

19 A Well, it burns your nostrils if you got too

20 close and, oh, and it spilt all over. And when

21 we got it on our shoes and you get home, or if

22 we were going to school, we come in the

23 classroom, we would get hell from the sister.

24 Q You got hell from the sister at St. Agnes?

25 A Yes.

1 Q What was the creosote in?
2 A What was it in?
3 Q Yes.
4 A Well, you mean when they were dipping them?
5 Q Right.
6 A Well, that was a wooden box longer than this
7 room. That's where they put the whole works in.
8 Q And did you actually see them dip the ties into
9 that wooden box?
10 A Sure.
11 Q And how did they dip it in?
12 A Well, there was a crane there or whatever it
13 was, a piece of machinery, and got ahold of them
14 and put a bunch in there for a length of time.
15 I don't know for how long, and then they would
16 pick them up and let them drip, and then they
17 put them on the side.
18 Q Did you actually see this happen?
19 A Yeah, sure.
20 Q How often?
21 A Well, whenever we would go down there.
22 Q How often would you go down there?
23 A Well, until we got called -- called off in
24 school to stay away, you know, that our shoes
25 were full of it.

1 Q How many times do you remember going down there
2 and watching these ties being dipped into the
3 wooden box?
4 A Oh, I don't know the number of times, 10, 15,
5 20.
6 Q How old were you when you saw this?
7 A Anywhere from 10, 13 years old.
8 Q What year were you born?
9 A 1910.
10 Q Now, Mr. Selner, did you ever see railroad cars
11 down by Schroeder Lumber?
12 A A lot of them. When a train load of logs came
13 in, we could hear the whistle and then everybody
14 put their head out of the window, you know, to
15 look. And you would see what was going on when
16 they were putting the cars down and when they
17 were taking them out and then when they were
18 loading boxcars.
19 See that was a separate unit that was
20 over toward the Soo Line Oredock more. There
21 was a separate track going out alongside of the
22 Soo Line Oredock. You see there is a space in
23 there where the boats could come in, into the
24 Soo Line Oredock to get ore.
25 Q Okay.

1 A And here was the, like the property was through
2 here to there, and then a railroad track over
3 there. And then this big plane mill was in
4 there. (Indicating)
5 Q I tell you what, I am going to show you a
6 diagram to see if maybe we can put some of these
7 things on a map.
8 A Okay.
9 Q And before I do that though, do you remember
10 doing an affidavit?
11 A (No audible response.)
12 Q Does that ring any bells?
13 A He is David.
14 Q I tell you what, I am going to show you what we
15 marked as an Exhibit No. 1, and that's an
16 affidavit, and ask you just if you have seen
17 that before. Why don't you look at the first
18 page, if you could.
19 A Okay. I only got one eye to look through.
20 Q Okay. Do you recognize that Exhibit 1?
21 A (Witness looks through exhibit.) November 6,
22 not 16.
23 Q Okay. Oh, November 16 in the Paragraph 1 should
24 be November 6?
25 A Yes, the 6th.

1 Q Do you remember signing this affidavit?
2 A No. When did I sign this?
3 Q If you look on the second page, is that your
4 signature?
5 A It is crooked. That's the way I write.
6 Q Do you recognize that signature on the second
7 page as yours?
8 A Oh, yes.
9 Q I would like to turn, Mr. Selner, to the diagram
10 that's attached to this Exhibit 1.
11 A (Witness looks at diagram.)
12 Q And is that a copy of the aerial photograph of
13 the area where Schroeder Lumber was?
14 A I don't know. I tell you it is just black and
15 white to me.
16 Q Okay. Why don't I try to orient you a little
17 bit. Can you recognize that photograph at all?
18 A Where would the fire hall be?
19 Q Let me try it differently for you. I am going
20 to point to you a building on this aerial
21 photograph and represent to you that's the
22 Wastewater Treatment Plant. Does that orient
23 you at all?
24 A That would be, if this is the main mill here,
25 that would be northeast, northeast of it.

1 Q Okay. Let me orient you first. Do you see this
2 building on the attachment to your affidavit?
3 A Yes.
4 Q Do you recognize that as an overhead photograph
5 of the Wastewater Treatment Plant?
6 A No, I don't, no.
7 Q Let me try something different for you let.
8 MR. FURLOW: Let's mark this as
9 Exhibit 2.
10 (Selner Exhibit No. 2 was marked for
11 identification by the Reporter.)
12 BY MR. FURLOW:
13 Q I am going to show you, Mr. Selner, a diagram,
14 and I'll represent to you that that's a diagram
15 of the John Schroeder Lumber Company in Ashland?
16 A Yes.
17 Q And you will see that it shows Prentice Avenue
18 and Third Avenue.
19 A That was the Main Street going down to where the
20 offices were. The offices were on the hill, you
21 know, just before you go down into the plant.
22 Q Okay. Which offices; the Schroeder Lumber
23 offices?
24 A Yes, Schroeder Lumber offices, yes. Many times
25 I went in there to pay for a load of wood or two

1 loads of wood, whatever we could get.

2 Q Let me ask you a couple of questions first. On

3 this Exhibit No. 2, this diagram, does this

4 orient you to the Schroeder Lumber Company area?

5 A Yeah, this is a track, the railroad track. The

6 Soo Line comes in and then these are the side

7 tracks going -- now this one here would be, I

8 imagine it's the furthest one east.

9 (Indicating) This black line would be the Soo

10 Line Oredock and this would be the -- well,

11 where they --

12 Q Let me ask you a couple of questions because we

13 have to have this show up on our transcript

14 here. I am going to hand you my pen, and we had

15 talked a little bit about the office for

16 Schroeder Lumber. You said it was at the top of

17 Prentice Avenue?

18 A Prentice Avenue right here. (Indicating)

19 Q That's Third Avenue?

20 A Where is Prentice?

21 Q Can you put an "X" where you think the Schroeder

22 Lumber offices would have been?

23 A Right here. (Indicating) Just before you go

24 down the hill.

25 Q And why don't you just put a No. 1 there, if you

1 could, where the offices are for Schroeder
2 Lumber?
3 A (Witness complies.)
4 Q And you said your dad worked at the mill?
5 A Yeah. He was stationary firemen.
6 Q And where was the mill?
7 A It was over the tracks and then there was a
8 space, and then there was this big area.
9 Q Why don't you put a No. 2 where the mill is. Do
10 the best you can.
11 A Well here are the tracks and roughly here, I
12 would say there. (Indicating)
13 Q Why don't you put a No. 2 where you marked the
14 mill?
15 A (Witness complies.)
16 Q And that's where your father worked?
17 A Yes.
18 Q Now you said when you brought your dinner to
19 your father, you saw a tank where there was
20 dipping was going on?
21 A I tell you, not at that time but later I did.
22 Q Okay. Can you show --
23 A You -- I am sorry.
24 Q Go ahead.
25 A You see at that time we would take his lunch to

1 him and that would be it, we didn't have a
2 chance until afterwards. And then we would walk
3 through where it was good clean going.

4 But after we got a little older, I
5 don't know how many years my dad worked there,
6 and he was on different jobs.

7 Q Let me ask you this question: Knowing where the
8 mill is and where the office is, could you put a
9 No. 3 on this map where you saw those tanks
10 where the ties were dipped?

11 A Oh --

12 Q And your best estimate based on your memory.

13 A Logs, no, they weren't that far.

14 Q And there are streets marked on here, if that
15 helps you out, Second, Third Street, Prentice,
16 things like that.

17 A Prentice Avenue is the main street going to the
18 office. And then that's where most of the men
19 took, you know, going into the mill, the
20 laborers that worked there.

21 Q They came down Prentice Avenue to the mill?

22 A To the mill, yeah. And then, of course, those
23 guys would get on the railroad track here and
24 walk. Where is the mill supposed to be? Would
25 that be here? (Indicating)

1 Q Correct. That's where you marked it.

2 A Well, they would walk down here to Prentice

3 Avenue. Where is Prentice? Right here.

4 (Indicating) Okay. And then they would go into

5 the mill here, you see, they would go to

6 wherever their job was, you know, in different

7 doors and underneath. There were tramways like

8 this all over.

9 Q What do you mean tramways?

10 A There was a driveway here. Here were posts,

11 cross bars for crossing big timbers.

12 (Indicating) And they had, they would start

13 piling lumber down below, on ground level, and

14 they got so high and they had a walkway up there

15 where horses would go pulling these little

16 two-wheel carts all around with sawed lumber.

17 And that's where they piled all of

18 their lumber to let it dry before it ever went

19 to this planing mill. Is this -- which one is

20 east and west?

21 Q That's an excellent question.

22 A Where is east?

23 MS. EGGLESON: Over towards me. We're

24 east over here, your right hand.

25 THE WITNESS: Say this was the Soo Line

1 Oredock. (Indicating) Then the planing mill
2 was here, and that's where these carts and the
3 horses would pull in whatever kind of lumber
4 they wanted, pine or popple or maple or
5 whatever. And then they would plane it, and it
6 would be ready to ship out.

7 BY MR. FURLOW:

8 Q Let's focus for a second on the treating. You
9 mentioned there was a long structure where they
10 would dip railroad ties into creosote?

11 A Yeah.

12 Q And I would like you to show me the best you
13 can, Mr. Selner, on this map with Prentice
14 Avenue being here.

15 A Oh, east --

16 Q The mill would have been here.

17 A Oh, east, east of Prentice Avenue. What is this
18 supposed to be?

19 Q Lumber shed it says, planing mill.

20 A Planing mill. Well, it wasn't in the planing
21 mill, it was outside. See, I didn't see them
22 dip ties, but I saw them with these telephone
23 poles.

24 Q Okay.

25 A They would get the whole length, was it 30 feet

1 long or something? And all of this black stuff
2 that they poured into this tank, that was
3 heated, so it was hot.

4 Q Okay. This was the creosote?

5 A Creosote, yeah, it was hot and it penetrated
6 these -- I imagine you could go out now and
7 wherever they would sell these logs to or these
8 big poles to, they could tell you which are
9 treated.

10 Q Let me move you, Mr. Selner, to this area
11 between Third Avenue and Second Avenue, this
12 area where it says "filled ground" on the
13 diagram here, Exhibit 2?

14 A Okay.

15 Q Do you recall what activity was going around in
16 that area?

17 A From let's say Prentice Avenue, if you go to
18 Prentice Avenue and go west as far as you could
19 see, that's from the mill to the railroad
20 tracks, this was all piles, numerous piles.

21 Q Piles of what?

22 A Lumber. They put them out there to dry instead
23 of running through a dryer in the mill.

24 Q And when the ties were put out to dry, had they
25 been dipped or not?

1 A That's something that I can't tell you.

2 Q You don't remember?

3 A I don't remember.

4 Q Okay.

5 A See we would get down on top of the hill. See

6 it was below the hill, below the railroad tracks

7 that went along the side of the hill. And when

8 it was recess time, we could only -- after

9 coming to school full of tar, that is our shoes

10 were, we couldn't go below the hill. So that

11 kept us from getting it in our shoes and

12 bringing it in.

13 And especially that one time that we

14 were in the 8th grade --

15 Q Okay. Let me just stop you there for a second.

16 I am going to hand you back your affidavit.

17 MS. GILBERT: Jon, I would like to

18 interject for a point of clarification.

19 MR. FURLOW: Yes.

20 MS. GILBERT: He indicated that from

21 Prentice as far west, it was lumber set up to

22 dry.

23 MR. FURLOW: Yes.

24 MS. GILBERT: He didn't say "tie," he

25 said "lumber".

1 MR. FURLOW: Okay. You can ask him
2 that question.
3 MS. GILBERT: Well, I didn't know if
4 you wanted to clarify or not, it is your call.
5 BY MR. FURLOW:
6 Q Mr. Selner, I am going to have you, if you can,
7 please, just read through this affidavit to
8 yourself. You don't have to read it to us; just
9 read it to yourself, please.
10 A (Witness reads exhibit.)
11 Q Have you had a chance to read your affidavit
12 that we have marked as Exhibit No. 1?
13 A Um, let's see. You mean that's reading all of
14 this? (Indicating)
15 Q Correct, the seven paragraphs.
16 A Well, here is No. 1.
17 Q Oh, right. I was referring to that sticker
18 there.
19 A I didn't notice that. You see I got only one
20 eye to look through now. This one, that's
21 football and scrapping and getting into trouble.
22 At one time I was a wrestler in high school,
23 playing football.
24 Q Did you have a chance to read those seven
25 paragraphs?

1 A Yes, I have.

2 Q Was the information accurate?

3 A (No audible response.)

4 Q Was it true?

5 A As far as I know, sure.

6 Q Were the statements in here that you made true?

7 A Yes.

8 Q Okay. I just want to ask you a couple of

9 follow-ups on that. If you look down to

10 Paragraph 3 --

11 A Yeah.

12 Q -- there is a reference to railroad ties being

13 loaded into an above-ground structure. Do you

14 see that?

15 A Um-hum, yes. You see, they had chains or --

16 either chains or cables that would get around

17 these ties or things that they wanted to dip;

18 you know, and it wasn't easy putting -- and

19 naturally it is so heavy that it would come up

20 and spew over the side.

21 And then after they set them there for

22 a length of time, whatever that was, I don't

23 recall anymore, then they would pick them out.

24 These chains or cables were still connected and

25 then they would pick them out and set them on

1 the sides.

2 Q Okay. If you look at Paragraph No. 4, you make

3 reference to this above-ground structure where

4 the creosote was. Do you see that?

5 A Uh-hum.

6 Q You have to say yes or no.

7 A Oh, yes.

8 Q And you say in this Paragraph 4 that you have

9 identified the approximate location on this map.

10 Do you see where you say that?

11 A I remember saying it, but as far as the

12 location, it was above ground.

13 Q Okay.

14 A I remember that much.

15 Q Let me just try to fresh your memory a little

16 bit. If you open up on your Exhibit No. 1 to

17 this map -- this is a bad copy, I apologize for

18 that -- but you see there is some, do you see

19 there was a mark on this map in approximately

20 the middle of the map?

21 A Yes, yes, I can see it.

22 Q Do you know if you made that mark?

23 A Oh, I can see scribbling there.

24 Q All right. I am going to orient you a little

25 bit. I am going to take, do you see the streets

1 that come down?

2 A Yes.

3 Q Do you know which one is Prentice Avenue?

4 A No, I can't.

5 Q Let me help you out a little bit here. I am

6 going to show you your Exhibit No. 1 together

7 with this diagram that we have marked as Exhibit

8 No. 2. Okay. Are you with me?

9 A Yes.

10 Q And I am going to represent to you that on

11 Exhibit No. 1 there is that area of the building

12 that is the Wastewater Treatment Plant.

13 A Yes.

14 Q And on Exhibit No. 2 there are some lines that

15 represent a building near where you marked No.

16 2. Do you see that?

17 A Yes.

18 Q And I am going to represent to you that those

19 are in the same area. Now based on that, does

20 Prentice Avenue show up now on this aerial

21 photograph?

22 A Look with one eye, look with two eyes, I can't

23 pick it out.

24 Q If I were to represent to you that this is --

25 A Where would Prentice Avenue be?

1 Q Prentice Avenue I am going to represent to you
2 would be right here. I am going to write
3 "Prentice" on there. Okay. Does that help you
4 out --
5 A Yes.
6 Q -- to kind of orienting yourself to the area?
7 A Well, Prentice Avenue went, see all of the
8 sawmill was over this way, I believe. Go down
9 Prentice Avenue in front of you and then right
10 in here. (Indicating)
11 Q Okay.
12 MS. EGGLESON: Can I ask for
13 clarification on whether you mean that was east
14 or west of Prentice Avenue?
15 MR. FURLOW: That's where our confusion
16 has been.
17 BY MR. FURLOW:
18 Q I am going to show you these maps, Mr. Selner.
19 Imagine now that you are walking down Prentice
20 Avenue. Okay. Do you have that in your head?
21 A Yes.
22 Q Walking north, you are walking down Prentice
23 Avenue toward Schroeder Lumber, okay?
24 A Yes.
25 Q And I have now turned your affidavit and the

1 diagram on it towards you, and I am having you
2 look at the photograph. Pretend you are walking
3 down Prentice Avenue toward the lake.

4 A Okay.

5 Q Now as you walk down Prentice Avenue toward the
6 lake, take the pen that I have in my hand and
7 mark me, if you can, where those tanks were that
8 the lumber was being dipped. Remember you are
9 walking down Prentice Avenue.

10 A I am walking down -- here, is this Front Street,
11 St. Clare Street?

12 Q Yes.

13 A Okay. Schroeder office building was right here.
14 (Indicating)

15 Q Could you put a No. 1 there?

16 A (Witness complies.)

17 Q There you go. Now you are walking down Prentice
18 Avenue, where were those tanks where the
19 creosote was? J

20 A Well, I imagine this is the mill itself. And
21 when I carried my dad's lunch, I had to go into
22 one of these doors somewhere here and go into
23 the fire room. (Indicating) And these tanks --

24 Q As you walked down Prentice Avenue, were the
25 tanks on your left-hand side or your right-hand

1 side?

2 A On the left. You could smell that, you know,
3 with the west winds, you smelled that tar, that
4 smelly creosote stuff.

5 Q Okay. And as you walked on Prentice Avenue, the
6 smell is coming from your left?

7 A From the left.

8 Q And is that the west?

9 A West, southwest.

10 Q All right. And could you mark on this
11 photograph, aerial photograph, with a No. 2
12 roughly as you walk down Prentice Avenue where
13 that smell of creosote is coming from?

14 A Well, from here (Indicating) as far as I can
15 remember.

16 Q Now just to make sure that we're clear here.
17 We're looking at the aerial photograph. You
18 have put a mark, a No. 2 on the aerial
19 photograph on your affidavit. J

20 Is that where you smelled the creosote
21 smell from?

22 A You see these --

23 Q Let me just --

24 A -- where the furnace room was, the odor would
25 come right into that furnace room. Of course,

1 you know, I was a young guy at that time and, of
2 course, I come up to probably the armpits of my
3 father and he was never a big man, about five
4 foot six.

5 Q Mr. Selner, how good is your memory on where
6 that creosote smell was coming from?

7 A Good and no good.

8 Q Okay. Why don't you explain that to me a little
9 bit?

10 A Well, when you are thinking back going into
11 this, the fire hall or fire room was lower than
12 the rest of the mill.

13 Q Okay.

14 A Everything was built up because of the machinery
15 and that. And it was coming from like the west.

16 Q Okay. The smell was coming from the west?

17 A Yes.

18 Q And as you walk down Prentice Avenue and you
19 look west, that is to your left, did you see
20 this dipping operation?

21 A No, I tell you, we knew it was there. But my
22 father said: Stay away from there so you don't
23 get smelly.

24 Q How did you know it was there?

25 A Smell.

1 Q Could you see it?

2 A Well, you saw buildings, but -- what looked like
3 buildings, but that was it.

4 Q You mentioned that you saw a structure where the
5 wood would be dipped in. Did you actually see
6 that?

7 A There was a crane or something there that would
8 take these logs and put them in there, but we
9 saw it after it was all done. You see, I would
10 come there at dinnertime and the men were
11 through working.

12 Q What did you see then?

13 A Just what was left, where they worked.

14 Q Could you see the structure then?

15 A The structure and that was it.

16 Q Was there anything in the structure?

17 A Oh, we couldn't look inside.

18 Q Could you smell anything?

19 A We could smell the creosote.

20 Q Okay. And where was that structure again on
21 Exhibit No. 1, on this aerial photograph? Put a
22 No. 3 where that structure was.

23 A I tell you, if I knew where the fire hall was.
24 In here somewhere. (Indicating)

25 Q Okay. You are pointing to the area by No. 2?

1 A The fire hall, if this was the whole mill, the
2 fire hall was over here. (Indicating) That was
3 the start of where they operated in through the
4 mill.
5 Q Okay. As you walk down Prentice Avenue again,
6 can you give me -- go ahead.
7 A If the wind was from the west or a little bit
8 toward the northwest, you would get -- that
9 smell came all of the way up to Second Street.
10 Q And the smell came from the area you marked as
11 No. 2?
12 A Yes, as far as I can remember. It come from the
13 west.
14 Q Okay. How sure are you that the smell was
15 coming from the west as you walked down Prentice
16 Avenue?
17 A This is the only thing that would tell us.
18 (Indicating)
19 Q "This" being your nose that you are pointing to?
20 A Yeah, you would smell it.
21 Q And let me ask you this: If you were to make a
22 scale of one to ten, ten being "absolutely
23 certain" and one being "I don't know," okay?
24 A Yeah.
25 Q How sure were you that that smell was coming

1 from the west as you walked down Prentice
2 Avenue?

3 A Well, you know how the streets were in Ashland,
4 the avenues. When you walk down Prentice Avenue
5 like on a Saturday, you would catch it in your
6 nostrils, they would tell you where it was
7 coming from.

8 Q Okay.

9 A West would always -- across the bay was DuPont
10 and you could see that smoke, which way the wind
11 was blowing. If it was coming straight at you,
12 it was just a big ball.

13 Q Just one second. Mr. Selner, are you familiar
14 with what is known as Marina Road?

15 A Marina Road, no. Where is it? I haven't heard
16 of it. I have heard of it, but I don't know
17 where it is.

18 Q Okay. That's fine. You mention that you
19 smelled creosote in the structure. Do you know
20 how the creosote got in there?

21 A We smelt the creosote as we were walking, when
22 they were heating it.

23 Q Okay. Do you know how the creosote got inside
24 the structure?

25 A Well, I suppose the men put it in there.

1 Q Do you know where they got it from?

2 A No, I never saw that part of it. I imagine the

3 way you buy tar now, it comes in 55 gallon

4 drums. Or if they got it in railroad cars or

5 those big black tanks that they are, that they

6 get gasoline in and stuff like that.

7 Q But back then, do you know how they got the

8 creosote?

9 A No, I don't.

10 Q Those are all of the questions that I have for

11 you, Mr. Selner. I think that these folks might

12 have some questions that they will ask you.

13 A Okay.

14 MS. EGGLESON: Carrie, are you still on

15 the phone?

16 MR. WOLSKI: I am here.

17 MS. EGGLESON: Would you like to go, or

18 would you like one of us to go?

19 MR. WOLSKI: Why don't you go. I am

20 not sure that I have anything.

21 EXAMINATION

22 BY MS. EGGLESON:

23 Q I'll call you John since that seems to be your

24 preference.

25 A That's the first time that I heard it correct.

1 Q John, before today, have you talked to someone
2 from Northern States Power about this?
3 A Not that I recall.
4 Q Okay. This is the first time that you recall
5 talking to anyone about --
6 A Yeah. I --
7 Q -- these questions?
8 A I came in here one day with, I had a paper and I
9 said: What the hell is this all about? And
10 that was about it.
11 Q What kind of a paper, that affidavit?
12 A No, just telling me when the meeting would be.
13 I gave it to David.
14 Q Did you come to a meeting with other people?
15 A No, no, no meeting or nothing. Just to the head
16 office out there.
17 Q Okay. You saw something about the questions and
18 you had some questions about it, is that it?
19 A I wondered what it was all about.
20 Q Okay.
21 A I didn't know until David told me something
22 about creosote?
23 Q Okay.
24 A Oh, I said: Yeah, when we were kids, I got into
25 it with my shoes. I said I come home and I got

1 hell from my mother. We were in the 8th grade,
2 I said, I should have known better.

3 Q And you got in trouble with the nuns, too?

4 A Oh, did we ever.

5 Q Do you remember whether the area that you got
6 into the tar, which side of Prentice Avenue that
7 was on?

8 A No, I don't.

9 Q Okay.

10 A I tell you, after we got a little older and my
11 dad was still working there, instead of taking
12 the railroad tracks, we would go under these
13 tramways. That's what they call these roads
14 that were up.

15 Q Okay.

16 A And then they pile the lumber so high and then
17 they had the roads and they could keep going,
18 the sky is the limit.

19 Q Okay. So you would go under those --

20 A Under those.

21 Q -- in later years?

22 A Sometimes we would go on top. You know, a kid
23 would crawl all over.

24 Q Okay. Well, let me ask you about timing. When
25 was it, if you can remember, that you recalled

1 smelling what you thought was creosote in a
2 tank?
3 A When we come into the 8th grade.
4 Q Okay.
5 A We had a sister by the name of Sister Clarence?
6 Q Okay. Was she a pistol?
7 A I had to go home and clean my shoes. Now where
8 I got this, somewhere down there.
9 Q Okay.
10 A Because you are walking through and you don't
11 pay any attention to where you are going.
12 Q Sure. Do you remember talking to Jamie and
13 Randy here a couple of years ago in the summer
14 about this stuff?
15 A Not that I recognize, as far as recognizing
16 them, I don't remember that.
17 MR. DUNN: I had a beard then.
18 BY MS. EGGLESON:
19 Q He is trying to fool you, he is in disguise. He
20 has his beard off. So you don't remember
21 talking to those guys about this?
22 A No. The only time I remember -- I came down
23 here sometime ago and I had this notice from the
24 power company that there would be a meeting, and
25 I come in and said: What the hell is this all

1 about?

2 Q And so did you talk to some people about it

3 then?

4 A No. I just come to the office, whoever was out

5 there, and that's the only one I talked to.

6 Q Do you remember when you signed that statement

7 that Mr. Furlow has been showing you, that

8 Exhibit No. 1, do you remember when you did

9 that?

10 A No, I don't. That isn't too far away, too many

11 years back. It is recent and then I --

12 Q That's okay. I understand.

13 Is it possible that if you saw a

14 dipping tank, that it was over more by the

15 oredock?

16 A Oh, see that was a planing mill over that way

17 and -- no. - See, when we first got all of this

18 tar or creosote in the shoes, Mother said: You

19 come right straight home from school.

20 Well, at dinnertime we had a mile to

21 walk approximately home to dinner and a mile to

22 come back to school.

23 Q Could have picked it up anywhere along the way?

24 MR. FURLOW: Objection.

25 THE WITNESS: God knows there was one

1 time when they were tarring Second Street when
2 they put the brick in, it used to be wood there,
3 big, big planks. And then when they put brick
4 in, they tarred it and, of course, kids, you
5 know, what the hell, getting their feet into it
6 and they want a day off of school.

7 You sat in the same room, or except at
8 recess time when you came back and you sat again.
9 And if you got the whole day off, well, then you
10 got the whole day off.

11 BY MS. EGGLESON:

12 Q John, do I understand correctly that you worked
13 for the Soo Line?

14 A On the oredock.

15 Q Okay. And approximately what timeframe was that
16 in? Do you remember when you started?

17 A Oh, listen. Off and on I worked from the time
18 that I was 15 years old, either on the Soo Line
19 or the Northwestern-Oredock.

20 Q Okay.

21 A That was \$5.15 for ten hours. That was that
22 big, you know. (Indicating) And then it wasn't
23 until I got through with high school, oh, '42 or
24 something like that that I got a job steady on
25 the Soo Line Oredock. I worked it 30 years.

1 Q Okay.

2 A Until I went into the Army. And when I come

3 back, I thought that I would come to a nice job,

4 and here the placed closed down. The mines

5 closed down and we were out of a job. In the

6 older men, there was Peter Sernas [sic.], Albert

7 DeBriyn, Carl Rud, Walter Carpenter, Ernie

8 Erickson, and I don't know if Ben Wolski, the

9 man that was just older than me, if he is gone

10 already or not then.

11 But when they hired, I was the first

12 one that was hired. So I was the older of the

13 younger men. And I think that I was about oh, I

14 must have been 32 or 33 years old at that time.

15 Q When you started full time?

16 A Yeah, full time.

17 Q Okay. Now let me get, just to clear something

18 up, I think that you said earlier this morning

19 that the only lumbers that-you saw stacked up

20 after dipping was phone poles, the long ones.

21 Did I get that right?

22 A I believe that's it, that's the only thing I

23 stacked up. And then you, they put them on the

24 trucks or, you know, or hauled them away to

25 wherever they were going to use them.

1 Q And that was in the area where you understood
2 the dip tank to be?
3 A Yes.
4 Q Over to the west of Prentice Avenue?
5 A (No audible response.)
6 Q Or are you just not sure about that location?
7 A I am not sure about that location. I remember
8 seeing them. I tell you, when you see that as a
9 kid, and then when you are 90 years old --
10 Q It is along time ago.
11 A Yeah.
12 Q That's okay.
13 A Yeah.
14 MS. EGGLESON: I don't have any other
15 questions right now. But maybe before we
16 completely finish, we can take a quick break.
17 MR. FURLOW: Sure.
18 MS. EGGLESON: Okay. So maybe if Janet
19 wants to.
20 MS. GILBERT: I have no questions.
21 MS. EGGLESON: Do you have any
22 questions, Carrie?
23 MS. WOLSKI: No, I don't.
24 MR. FURLOW: I just have a couple of
25 follow-ups.

1 FURTHER EXAMINATION

2 BY MR. FURLOW:

3 Q John, how old were you in the 8th grade?

4 A When I got through with the 8th grade, I was 15.

5 Q And you have talked about having creosote on
6 your shoes?

7 A Oh, yes.

8 Q Do you know where that creosote came from?

9 A Down in the mill property.

10 Q By Schroeder Lumber?

11 A Yeah, Schroeder Lumber.

12 Q Are you sure about that?

13 A Yeah, sure. What else would it be from? Except
14 the year that they put in brick on Second
15 Street.

16 Q Okay.

17 A Then, of course, you had to cross the -
18 intersection and you got it on your shoes, and
19 that was more tarry, you know, it would stick.

20 And if you happened to come out -- if
21 you were coming home, you had to take your shoes
22 off at the door.

23 Q Okay. What was the difference between the tar
24 and the creosote?

25 A Creosote was more loose, more like water.

1 Q Okay. Did you get that on your feet anywhere
2 other than Schroeder Lumber?

3 A No, there was no place that, there was no other
4 place where it went.

5 Q Okay. I am going to have you look at your
6 affidavit again, Exhibit No. 1. And I want to
7 follow-up on one of Ms. Eggleson's questions.
8 If you look at Paragraph No. 3 here,
9 and I am going to point you to it, you make a
10 reference to workers that dipped railroad ties.
11 Do you see that?

12 A Uh-hum.

13 Q Is that yes or no?

14 A Yeah.

15 Q Okay. You wanted to change the date on that for
16 your birthday?

17 A Yes.

18 Q Let me bring you down to Paragraph 3 where there
19 is a reference to workers that dip railroad
20 ties. Do you see that?

21 A Yes. You see, we would take --

22 Q Well, let me just stop you for a second. I
23 don't mean to interrupt. Do you remember seeing
24 workers dip railroad ties at Schroeder Lumber?

25 A Yes, for a very short time.

1 Q Okay.

2 A Sometimes instead of taking the Second Street

3 home down to 12th Avenue, we would take the Soo

4 Line Railroad track. That's this track here.

5 (Indicating) And we would take it down to about

6 Stunts Avenue, and then we would get on Second

7 Street and go home.

8 Q And how does that make you remember railroad

9 ties being dipped?

10 A Some of those were fresh ties.

11 Q Do you know where the fresh ties came from?

12 A Just assuming that they came from Schroeder's.

13 Q Did you ever see railroad ties at Schroeder's?

14 A No, not when -- if I was carrying lunch to my

15 dad.

16 Q Okay. How about any other time?

17 A Well, when he quit, I never got down there.

18 Q Okay. Now your statement, your affidavit, is

19 dated 1999. J

20 A Yeah.

21 Q And you have had a chance to read your

22 affidavit?

23 A Uh-hum.

24 Q Is that a yes or no?

25 A Yes.

1 Q And you have heard some questions from me and
2 Ms. Eggleson?
3 A Um-hum, yes.
4 Q Okay. After today's questions and after looking
5 at your affidavit, would you change anything
6 that you said in that affidavit that you signed
7 in 1999, except for the date of your birthday?
8 A No.
9 Q Can you tell me, John, is your memory better
10 today, or would it have been better in 1999?
11 A (No audible response.)
12 Q The best you can.
13 A Put the question mark there. '99 and this is
14 two years only. No, about the same.
15 MR. FURLOW: That's all that I have.
16 MS. EGGLESON: I thought of something
17 else that I wanted to ask you about, John.
18 THE WITNESS: Does it hurt?
19 MS. EGGLESON: No, I promise.
20 FURTHER EXAMINATION
21 BY MS. EGGLESON:
22 Q Do you remember back in the same timeframe that
23 we have been talking about, when you were like
24 in the 8th grade, was there a manufactured gas
25 plant near the Schroeder Lumberyard?

1 A Oh, I tell you, there was a horse barn.
2 Q Up on the hill?
3 A Up on the hill, yeah. Now where was that gas
4 plant? Gee, right now I can't tell you.
5 Q But you remember that there was one?
6 A There was one, yes.
7 Q Okay. But you don't remember where it was.
8 A No. Right now I couldn't take you down there
9 and show you where it was.
10 Q Was it near Prentice Avenue?
11 A That I can't tell you either.
12 Q Okay.
13 MS. EGGLESON: Could we maybe take just
14 a quick break?
15 MR. FURLOW: Sure.
16 MS. EGGLESON: John, we're going to
17 take just a quick break to see if we are
18 forgetting anything because we don't want to
19 bother you again here. So we'll just take five
20 minutes here and then maybe we can get you out
21 of here.
22 (Whereupon, a short break was taken
23 from 10:30 a.m. to 10:35 a.m.)
24 (Selner Exhibit No. 3 was marked for
25 identification by the Reporter.)

1 BY MS. EGGLESON:
2 Q John, have you had a chance to look at that
3 other statement that I have given you?
4 A The one that I am reading?
5 Q The one that you are holding there, yes.
6 A I am reading it now.
7 Q Okay. Let me know when you are done.
8 A (Witness reviews exhibit.) Where 89 is, it
9 should be 90.
10 Q You corrected your age there?
11 A Yeah.
12 Q I take it you have had a chance to look at this
13 now. And by "this," I mean what has been marked
14 as Exhibit 3, you have looked at that now?
15 A Yeah.
16 Q I wasn't aware until we took the break, Jamie
17 and Randy told me that they had actually given
18 this to you and you had signed it. I was
19 unaware of that. They pointed that out to me.
20 So I wanted to show it to you and see
21 if you remember this, having looked at it now.
22 A Yes.
23 Q That's, yes?
24 A Oh, yeah.
25 Q Okay. You have had a chance to look through it

1 now. Did I understand you to say that the only
2 correction that you wanted to make was on your
3 age on the second page there?

4 A That's it.

5 Q Otherwise this is a pretty accurate statement of
6 what you told those guys that day?

7 A As far as it is up here, yes.

8 Q Okay. Does that refresh your recollection a
9 little bit about where you understood the
10 dipping tank to be?

11 A Right now, no.

12 Q Okay.

13 MS. EGGLESON: I don't think that I
14 have any other questions.

15 MR. FURLOW: Anyone else?

16 MS. GILBERT: Nothing.

17 MR. FURLOW: John, I have a couple of
18 follow-ups. It is kind of like a tennis game.

19 THE WITNESS: Sure. J

20 MR. FURLOW: I want to go back to your
21 statement here, John.

22 But first of all, Carrie, do you have
23 any questions?

24 MS. WOLSKI: No, I don't.

25 FURTHER EXAMINATION

1 BY MR. FURLOW:

2 Q John, I am going to show you Exhibit No. 3
3 again. You make a reference again in the third
4 paragraph, and I'll just read it. It says,
5 "Selner stated that there was only one wood
6 treatment facility in the area that he was aware
7 of." Do you see that?

8 A Yes.

9 Q Was that a reference to the Schroeder Lumber
10 facility?

11 A That's the only one that I know.

12 Q I want you to walk down Prentice Avenue again
13 for me, walk down the hill.

14 A Yes.

15 Q Did you see piles of telephone poles?

16 A No.

17 Q Didn't see those?

18 A No. The only thing you saw going down Ellis --
19 or going down Prentice Avenue, was piles of
20 lumber and these tramways that were built up.
21 And the lumber was piled, you know, deep as they
22 were down and they were that high. (Indicating)
23 And that green lumber was dried so that they
24 could plane it.

25 Q Okay. Let me orient you again. I want to go

1 back to Exhibit No. 2, and again you are looking
2 toward the north as you go down Prentice Avenue.
3 Are you with me?

4 A Yes.

5 Q Can you show me with a No. 3 where St. Agnes
6 school is?

7 A Oh, let me see, Prentice Avenue. Where is the
8 street?

9 Q Prentice Avenue is here, Second Avenue is here,
10 Third Avenue is here. (Indicating)

11 A Second, it would be over in here. (Indicating)

12 Q Okay. Why don't you put a No. 3 where St. Agnes
13 School is on Exhibit No. 2?

14 A (Witness complies.)

15 Q Okay. Did you do that for me?

16 A Yeah, I did it right here. It would be
17 approximately here. (Indicating) See and --

18 Q Let me ask you a different question now.

19 A Yeah.

20 Q You have marked on Exhibit No. 2 with a No. 3
21 where St. Agnes School is; correct?

22 A Yes.

23 Q Now from where St. Agnes School was, could you
24 see the creosote operation at Schroeder Lumber?

25 A No, no. You see, there were railroad tracks

1 that were low.

2 Q They were down at the bottom of the hill?

3 A Well, almost to the bottom.

4 Q Okay.

5 A And then when it went into the mill, all of

6 these railroad tracks went down say two or three

7 feet, you know, because the railroad can't go up

8 a steep hill. It is an incline and they go into

9 the mill.

10 Q Okay. Let me go back to Exhibit No. 3, and I

11 want to orient you again to a statement here.

12 You reference that there was a Schroeder -- I am

13 reading upside down, I have to apologize for

14 that.

15 A The Schroeder Lumber tank.

16 Q Yes. The Schroeder Lumber tank. What was that

17 you were talking about?

18 A Let me see. Oh, there were tanks there where

19 the only time you saw -- well, the only time we

20 got there was after school.

21 Q Okay.

22 A And the men were practically through working.

23 Q What tank were you referencing when you said --

24 A I don't know. Just that there were tanks there.

25 Q Were those the dipping tanks or some different

1 tanks?

2 A I don't know.

3 Q You don't know?

4 A Schroeder had a tug or two and a --

5 Q Had a what or two?

6 A Tug.

7 Q Oh, a boat?

8 A Yeah, a boat for pulling in logs that had been

9 cut over on the islands. And every so often

10 they would bring in a raft of saw logs.

11 Q Okay. Was there more than one above-ground tank

12 on the Schroeder property?

13 A One, two, not over two.

14 Q Not over two?

15 A Not over two if there were that many. Not over

16 two.

17 MR. FURLOW: That's all that I have,

18 thanks.

19 THE WITNESS: Yeah. Thanks for the

20 coffee.

21 FURTHER EXAMINATION

22 BY MS. EGGLESON:

23 Q I hate to keep going back and forth here, John,

24 but I would like to ask you one other thing.

25 Looking at this site diagram here again, let's

1 orient it so that you are facing north on the
2 lake here. And Jon Furlow has been walking you
3 down Prentice Avenue which is -- oh, I am sorry,
4 I have it upside down.

5 MR. FURLOW: That's what I was going to
6 reference. You are looking down Prentice
7 Avenue.

8 BY MS. EGGLESON:

9 Q Okay. Over to the east of Prentice Avenue a
10 couple of blocks is Willis Avenue?

11 A Yes.

12 Q You are familiar with Willis Avenue?

13 A Yes.

14 Q Okay. Do you recall back during that same, you
15 know, during that 8th grade timeframe, do you
16 recall what you would see if you walked down
17 Willis Avenue to the lake?

18 What would be in that area, do you
19 remember?

20 A When you come to, I don't recall if that was a
21 highway then at that time or not. That would be
22 Front Street.

23 Q Okay.

24 A And then you would go about a half block and you
25 will come to the railroad tracks.

1 Q All right.

2 A And you cross the railroad tracks and then the

3 Schroeter Mill property was in that whole bay

4 front. You might as well say from Prentice

5 Avenue all of the way up to Ellis Avenue.

6 Q Okay.

7 A That was all Schroeder Lumber Company property.

8 You see how it happened to be their lumber, all

9 of their slabs was thrown into the shore line

10 and covered up with sawdust, because there was a

11 lot of sawdust there.

12 And my dad had the fire going down

13 there. The only time they had a fire that was

14 coal was in the wintertime.

15 Q Otherwise they used the slab wood?

16 A Slab wood and sawdust.

17 Q Okay.

18 A There was enough heat there that it would all go

19 up the chimney. J

20 MS. EGGLESON: I don't think that I

21 have any other questions.

22 MR. FURLow: I think that we're done.

23 Carrie, do have anything?

24 MS. WOLSKI: No, I don't know.

25 COURT REPORTER: Before we conclude, I

1 STATE OF WISCONSIN)
2)
3 COUNTY OF ASHLAND)

4 I, Susan K. Edwards, a Notary Public in and for the
5 State of Michigan, do hereby certify that John Selner, the
6 witness named herein, personally appeared before myself on
7 the 16th day of October, 2001, commencing at 9:15 a.m. at
8 the XCEL ENERGY OFFICE, Ashland, Wisconsin 54806, and was
9 by me sworn to testify the truth and nothing but the truth
10 in the within titled cause.

11 That said deposition was reported by me as a court
12 reporter and disinterested person, and was thereafter
13 transcribed into typewritten form under my direction.

14 And I further certify that I am not of counsel or
15 attorney for either or any of the parties to said
16 deposition, nor in any way interested in the outcome of the
17 cause named in the caption.

18 I have hereunto set my hand and affixed my seal of
19 office this 17th day of October, 2001.

20

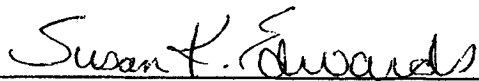
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SUSAN K. EDWARDS - NOTARY PUBLIC
IN AND FOR THE STATE OF MICHIGAN

My commission expires: July 8, 2006

AFFIDAVIT
OF
JOHN SELNER

STATE OF WISCONSIN)
) ss.
COUNTY OF ASHLAND)

I, JOHN SELNER, the undersigned, do hereby depose and state as follows:

1. I reside at 603 12th Avenue East, Ashland, Wisconsin. I was born on November 19, 1910 and I am 88 years old. I worked on the Soo Line Oredock located to the east of Kreher Park for approximately 30 years.

2. As a boy, I attended the St. Agnes School which is located on the top of the bluff and adjacent to Kreher Park. I spent time during my childhood playing in the area now known as Kreher Park but at that time it was occupied by Schroeder Lumber Company.

3. In approximately 1925 when I was about 14 or 15 years old, I recall observing Schroeder Lumber Company workers dip railroad ties into an aboveground, wooden, tank-like structure containing creosote-type material. The ties were loaded into the aboveground structure by hand after being rolled off rail cars that proceeded down the track siding towards the mill area which is now the sewage treatment plant. The Schroeder Lumber Company was in full operation at this time.

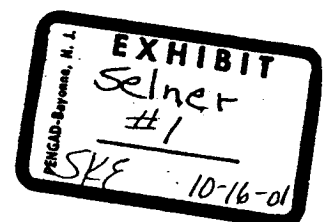
4. I recall that the creosote was heated and boiling and that it spewed out of the tank. I believe that the aboveground structure was about 40 feet long and about 3 to 4 feet wide and 3 to 4 feet deep. I have identified the approximate location of the aboveground structure on the attached aerial map with a circle and my initials.

5. I also recall getting creosote on my clothes and shoes when I was on the Schroeder Lumber Company property.

6. I do not recall any other locations of the Schroeder Lumber Company property where treatment of railroad ties took place. I also do not recall any discharge of tars or other liquids from the bluff area adjacent to the gas plant.

7. I have received no payment or benefit of any kind from any party for making this Affidavit.

Dated this 23 day of June, 1999.



Subscribed and sworn to before me
this 23rd day of June, 1999.
James M. Coole
Notary Public, State of Wisconsin
My Commission: February 24, 2002.

John M. Selner
John Selner



204



CASE ACTIVITY REPORT
Form 4100-160

8-99

State of Wisconsin
Department of Natural Resources
Law Enforcement

John M. Selner 8-200

Case Number 98-NOEE-039	Case Title NSP Ashland - Kraher Park Site
Activity Interview with John Selner	Date of Activity July 28, 2000

Narrative:

On July 28, 2000 at 9:40 a.m. Wisconsin Department of Natural Resources (WDNR) Environmental Warden Randal V. Falstad, Hydrogeologist James R. "Jamie" Dunn and Customer Service Representative Julie K. Thompson began an interview with John M. Selner (DOB 11/6/10). The interview took place at the Selner residence at 603 12th Avenue East in Ashland, WI. Selner's phone number is 715-682-3065. The interview was part of an investigation into identifying the parties responsible for the contamination of lakefront property in Ashland. After identifications in which Falstad displayed his badge and credentials, Selner had the following to say:

Selner stated that he went to school at Saint Agnes School from the 2nd to 8th grades from about 1918 to 1925. He had gone to Bay City school for kindergarten and first grade. Because he missed a lot of school in the second grade due to diphtheria, he was 15 years old when he got out of school. Because he went to school in the area, he had played around the lakefront as a kid.

Selner stated that there was only one wood treatment facility in the area that he was aware of. He stated that it was Schroeder Lumber's tank, which was located on the east side of Prentice Avenue behind their barn and between the barn and the railroad tracks. He stated this was in the area where Willis Street goes down to the lake. He stated the tank was made of wood and was 20' to 30' long. He stated Schroeder's treated 12" x 12" timbers in the tank. Selner stated he did not know where Schroeder's got the treatment material to put in the tank. He stated that he thought the tank had steam pipes under it to heat the material in the tank.

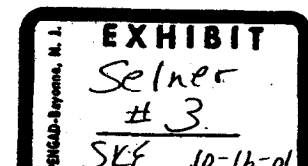
Selner stated that he thought the Lumber Company had closed down during the years he was going to school at Saint Agnes.

Selner stated he really did not know much about the gas plant except that he knew there was a manufactured gas plant operation in the area. He stated that he could remember getting into trouble for tracking tar into school and making tar balls in school.

The interview with Selner ended at 10:10 a.m.

Warden Reporting Randal Falstad/James Dunn/J. Thompson	Date of Report July 31, 2000	Exhibit Reference
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This document was produced as a result of an official Law Enforcement investigation. Contents, in whole or part, are privileged by s. 905.09, Wis. Stats., and may not be used without express permission of the Wisconsin Warden Service or appropriate prosecutor.



Affidavit of John M. Selner

STATE OF WISCONSIN)
) ss
COUNTY OF ASHLAND)

Post-It® Fax Note	7671	Date	10-3-01	# of pages	2
To	Jamie Dunn	From	D. Johnson		
Co./Dept.		Co.			
Phone #		Phone #	267-0846		
Fax #		Fax #			

I, John M. Selner, being first duly sworn state that:

1. I was born on November 6, 1910, and am ⁹⁰ years old. I reside at 603 12th Avenue East, Ashland, WI.
2. I spoke with Wisconsin Department of Natural Resources Environmental Warden Randall V. Falstad on July 28, 2000, concerning contamination in what is now Kreher Park, Ashland, WI.
3. I have read the report prepared by Randall V. Falstad which is dated July 31, 2000, and it is an accurate summary of what I told him on that date.
4. I have signed my name and date at the top of each page of the report.

Signed this 7 day of ^{Aug.} July, 2000.

John M. Selner

Subscribed and sworn before me this 7 day of ^{Aug.} July, 2000.
[Signature], Notary Public
My commission expires June 24, 2001

AFFIDAVIT
OF
JOHN SELNER

STATE OF WISCONSIN)
) ss.
COUNTY OF ASHLAND)

I, JOHN SELNER, the undersigned, do hereby depose and state as follows:

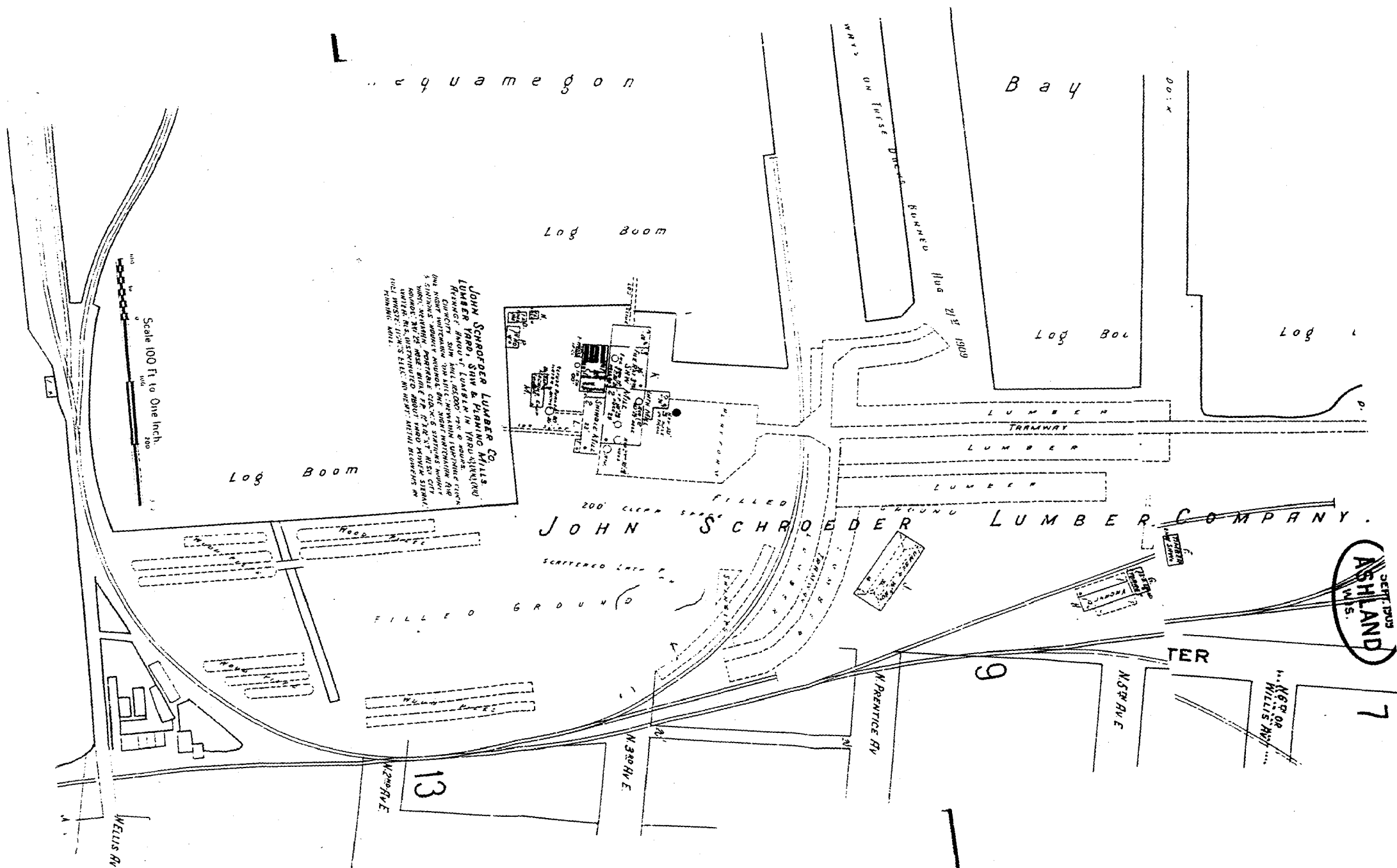
1. I reside at 603 12th Avenue East, Ashland, Wisconsin. I was born on November 16, 1910 and I am 88 years old. I worked on the Soo Line Oredock located to the east of Kreher Park for approximately 30 years.
2. As a boy, I attended the St. Agnes School which is located on the top of the bluff and adjacent to Kreher Park. I spent time during my childhood playing in the area now known as Kreher Park but at that time it was occupied by Schroeder Lumber Company.
3. In approximately 1925 when I was about 14 or 15 years old, I recall observing Schroeder Lumber Company workers dip railroad ties into an aboveground, wooden, tank-like structure containing creosote-type material. The ties were loaded into the aboveground structure by hand after being rolled off rail cars that proceeded down the track siding towards the mill area which is now the sewage treatment plant. The Schroeder Lumber Company was in full operation at this time.
4. I recall that the creosote was heated and boiling and that it spewed out of the tank. I believe that the aboveground structure was about 40 feet long and about 3 to 4 feet wide and 3 to 4 feet deep. I have identified the approximate location of the aboveground structure on the attached aerial map with a circle and my initials.
5. I also recall getting creosote on my clothes and shoes when I was on the Schroeder Lumber Company property.
6. I do not recall any other locations of the Schroeder Lumber Company property where treatment of railroad ties took place. I also do not recall any discharge of tars or other liquids from the bluff area adjacent to the gas plant.
7. I have received no payment or benefit of any kind from any party for making this Affidavit.

Dated this 23 day of June, 1999.

Subscribed and sworn to before me
this 23rd day of June, 1999.
James M. Cooley
Notary Public, State of Wisconsin
My Commission: February 24, 2002

John Selner
John Selner

L...equamegon



DET. 1905
ASHLAND
WIS.

7

**ASHLAND LAKEFRONT PROJECT
INTERVIEW RECORD**

**ATTORNEY / CLIENT
CONFIDENTIAL**

INDIVIDUAL INTERVIEWED: Mr. John Selner
603 12th Ave. E.
Ashland, Wisconsin 54806

DATE AND TIME INTERVIEWED: 1/7/99 2:00 PM
INTERVIEW LOCATION: NSP'S ASHLAND OFFICE

INTERVIEWED BY: J.A. MUSSO

OTHERS PRESENT: J. PODLESNY, D. PATZOLDT

John Selner is an 88 year old Ashland resident, born on November 16, 1910. He attended the St. Agnes church school located adjacent to Kreher Park. He spent time during his childhood in the area occupied by Schroeder Lumber and later worked at the Soo Line oredock to the east of Kreher Park.

Mr. Selner has specific recollection of an above ground wooden structure (tank) that held creosote type material that he observed ties being dipped in. He recalls the creosote was heated and boiling and remembers that it "spewed out" of the tank. He said there was no fire under the tank that was visible and he now suspects it must have been heated with steam lines from the mill. He believes the structure was about 40 feet long and about 3-4' wide and 3-4' deep. He recalled being about 14 or 15 when he saw ties being placed into and removed from this tank. This would have been about 1925. He confirmed Schroeder Lumber was in full operation at that time.

I asked Mr. Selner to indicate on the attached aerial photograph the approximate location of this structure. The area circled is the area he identified. He did recall getting creosote on his clothes and shoes. He indicated ties were loaded into this structure by hand after being rolled off rail cars that proceeded down the track siding that went towards the mill area (now the Sewage treatment plant).

Mr. Selner had no recollection of any other locations on the site where treatment of ties took place. He also did not recall any discharge of tars or other liquids from the bluff area adjacent to the gas plant.

Mr. Selner indicated he would pleased to meet with us again if needed and would be willing to sign an affadavit if we requested same. The interview concluded about 2:50 PM

Interview summary prepared by : J.A. Musso Date: 1/8/99

JAN 11 '99 10:05AM NSP MI POWER SUPPLY

P.3



Case Number 98-NOEE-039	Case Title NSP Ashland – Kreher Park Site
Activity Interview with John Selner	Date of Activity July 28, 2000

Narrative¹

On July 28, 2000 at 9:40 a.m. Wisconsin Department of Natural Resources (WDNR) Environmental Warden Randal V. Falstad, Hydrogeologist James R. "Jamie" Dunn and Customer Service Representative Julie K. Thompson began an interview with John M. Selner (DOB 11/6/10). The interview took place at the Selner residence at 603 12th Avenue East in Ashland, WI. Selner's phone number is 715-682-3065. The interview was part of an investigation into identifying the parties responsible for the contamination of lakefront property in Ashland. After identifications in which Falstad displayed his badge and credentials, Selner had the following to say:

Selner stated that he went to school at Saint Agnes School from the 2nd to 8th grades from about 1918 to 1925. He had gone to Bay City school for kindergarten and first grade. Because he missed a lot of school in the second grade due to diphtheria, he was 15 years old when he got out of school. Because he went to school in the area, he had played around the lakefront as a kid.

Selner stated that there was only one wood treatment facility in the area that he was aware of. He stated that it was Schroeder Lumbers tank, which was located on the east side of Prentice Avenue behind their barn and between the barn and the railroad tracks. He stated this was in the area where Willis Street goes down to the lake. He stated the tank was made of wood and was 20' to 30' long. He stated Schroeder's treated 12" x 12" timbers in the tank. Selner stated he did not know where Schroeder's got the treatment material to put in the tank. He stated that he thought the tank had steam pipes under it to heat the material in the tank.

Selner stated that he thought the Lumber Company had closed down during the years he was going to school at Saint Agnes.

Selner stated he really did not know much about the gas plant except that he knew there was a manufactured gas plant operation in the area. He stated that he could remember getting into trouble for tracking tar into school and making tar balls in school.

The interview with Selner ended at 10:10 a.m.

1

Warden Reporting Randal Falstad/James Dunn/J. Thompson	Date of Report July 31, 2000	Exhibit Reference
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This document was produced as a result of an official Law Enforcement investigation. Contents, in whole or part, are privileged by s. 905.09, Wis. Stats., and may not be used without express permission of the Wisconsin Warden service or appropriate prosecutor.

**CONFIDENTIAL DOCUMENT
ATTORNEY WORK PRODUCT**

**INTERVIEW SUMMARY
OF
JOHN SELNER**

Date: 10/9/98 2:00 p.m.
Place: 603 12th Avenue East, Ashland
With: DAC, Pete Erickson, RVE

Selner was born in 1910. He lives at 603 12th Avenue East in Ashland. He is a life-long resident of Ashland.

Selner remembered and described the Schroeder property. The Schroeder offices were at the top of the hill, now the Kabasa house. The planing mill was located next to the ore dock slip. There was a lumber shed next to the planing mill where the finished lumber was stored.

Selner recalled an aboveground creosote wood treating tank outside of the lumber shed and near the planing mill in which Schroeder treated cedar and hemlock railroad ties. He recalls that the creosote was heated and that the tank was made of steel. He vividly recalls that area as a "stinky place". Selner never saw how the tank was filled or how it was disposed. He does not recall the same type of material anywhere else on the property.

Selner used to play and walk around on the Schroeder property when he was a kid about 10-15 years old. If his shoes got full of coal tar, he got in trouble when he got home. Selner stated that the "stinky stuff" was on the east side of the Schroeder property by the planing mill.

After Selner graduated from high school he stayed in Ashland. He later worked on the coal/ore dock for 30 years.

B

YUE

February 10, 1998

On February 10, 1998 at approximately 9:30 a.m., I contacted Gordon F. Parent by telephone to discuss certain details associated with the affidavit he provided in 1995 concerning the activities of Schroeder Lumber Company. He confirmed his age of 66 at the time of the affidavit. We then discussed his recollection of activities that Schroeder was conducting in the 1930's. He stated that Schroeder was still in limited operation until the end of the 1930's. He again affirmed his specific recollection of the above ground creosote railroad tie dipping structure at the location he had previously marked on the map attached to his 1995 affidavit. He indicated that this area was one that he and his brothers often played near when they were young. He specifically reiterated his previous statement from the 1995 affidavit in which he indicated that he saw the ties being dipped and also remembers when the above ground structure was removed and the depression area in the ground where the tars and creosote were confined remained. Again, this was the in the area noted on the 1995 affidavit. He stated emphatically that Schoeder operations did not cease in 1931 and that these recollections relative to Schroeder activities are from the late 1930's when he was between the ages of 8 and 10.

Note to file: Schroeder retained the property until 1939

Prepared by: J.A. Musso
2/10/98.



Post-It® Fax Note	7671	Date	2-10	# of pages	1
To	Dave Cross	From	Jim Musso		
Co./Dept.	MBF	Co.			
Phone #		Phone #	2616		
Fax #		Fax #			

**CONFIDENTIAL DOCUMENT
ATTORNEY WORK PRODUCT**

**INTERVIEW SUMMARY
GORDON PARENT**

Date: 9/3/98
Time: 1:15 P.m.
Place: NSP/Ashland office
By: DAC (RVE), Jim Musso, Pete Erikson

Parent was born September 4, 1928. He is currently 69 years old. He grew up in Ashland on Willis Ave. and 4th Street. He is a life-long resident of Ashland with the exception of 4 years when he went to work in Kenosha at age 22. Then he returned to Ashland to work at the sewage treatment plant.

Parent and his brother, Ray, played in the lumber yards on the Schroeder Lumber Co. property as kids. His father worked at Schroeder. Parent recalls that he could still get in trouble for playing at Schroeder while mill was closed because there was a watchman there. They were not allowed in the area but they went there to play anyway because it was more fun.

Parent recalls a bottomless coal tar dipping structure on the Schroeder property that was framed on the sides with planks. It was 25' x 25' and 2-3 feet above the ground. Parent recalls that he used to throw rocks in the pit and it made a splashing sound. He was careful not to get the coal tar on him because it burned. He refers to the coal tar pit as a "bad spot" because his mom would spot the tar on his shoes and clothes. He recalls only 1 coal tar pit in the area.

Parent affirms that wood treating did occur. He recalls seeing railroad ties being pulled out of the tar pit with tongs. The excess creosote was scrapped off. The railroad ties were stacked and remained on the property after the mill closed. Parent doesn't know how many times he saw this occur. The wood treating was done by a couple of guys in overalls and boots. Parent recalls this occurring towards the end of the Schroeder operations. The dipping structure appeared to have been there awhile. Parent thinks tar was transported to the site by horse because he doesn't remember any pipes or reservoirs in the area.

(Gordon's brother, Ray, is 71 years old and also recalls seeing treated wood on the Schroeder property. Ray said there used to be other pits down by Willis Avenue.)

Parent recalls that shingle mill was located on the east end of the Schroeder property and operated about 4 years after the sawmill closed. The cedar shingles that Schroeder manufactured were not dipped in creosote. Parent doesn't specifically recall

poles being treated. He does not recall when all of the mills shut down.

Parent doesn't know Charles Smith. He states that Ben Mulavitz took the furnaces down.

Parent began working at the sewage treatment plant in 1952. He wore rubber boots while walking around the area but the boots deteriorated.

Parent recalls the coal tar dump being closer to the railroad track spur. He recalls seeing pipes exiting near the railroad tracks and manifold where the pipes rested. The pipes went to the tanker car. He recalls that there were two pipes about 1 1/2 inches. Parent believes coal tar flowed through the pipes and into the tanker car. He saw the pipes when he worked at the sewage treatment plant in 1952. He states he saw the pipes being used.

One day while Parent worked at the sewage treatment plant, he started the area on fire when the brush he was burning accidentally hit some coal tar.

Parent recalls seeing a 12" culvert off of Pulp Hoist Road. It was installed to dewater the area.

Parent remembers a dump on Kreher Park. When he worked nights at the sewage treatment plant, he used to walk along the beach and found coins and a diamond ring.

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AFFIDAVIT OF GORDON F. PARENT

STATE OF WISCONSIN)
)
COUNTY OF ASHLAND) ss.

I, GORDON F. PARENT, the undersigned, hereby make the following statement:

1. I reside at 1412 Fifth Street East, Ashland, Wisconsin 54806.

2. I am a 66 year-old, life-long resident of Ashland. As a child I lived on Willis Avenue and Fourth Street East in Ashland. I used to play in the area now known as Kreher Park.

3. I had a variety of jobs at the City of Ashland Wastewater Treatment Plant, for a period of 34 years in total, from 1952-1986. During my later years with the City, I was employed as a Sewage Utility Operator.

4. I recall that when I was a child, the Schroeder Lumber Company was still in operation at the site now called Kreher Park (Site). I observed the Schroeder Lumber Company employees dip railroad ties into an above-ground structure, approximately 50 feet by 50 feet, made of wood planks, which contained creosote or coal tar. I recall that when the ties were lifted out of the structure, I could see the creosote/coal tar material drip onto the ground. I also recall that when this structure was demolished, the tars it contained were allowed to sink into the ground. This formed a depression in the ground at the approximate location which I have circled on the attached aerial photograph; I have also placed my initials within the circle.

5. I recall that when I was a young man and ~~continuing~~ *AP* during my employment at the Wastewater Treatment Plant, that municipal waste was dumped along the west end of the Site both in Chequamegon Bay and along the shoreline of the Bay. I have circled this location on the attached aerial photograph and placed my initials within the circle. This waste consisted of all types of demolition debris and municipal solid waste, including cans, bottles and all types of household waste. Among the things I recall being disposed there were an entire automobile, which I believe may have been a 1936 Essex, and a ring which I found. I have had the stone from that ring remounted into a ring which I still wear.

6. During my employment with the Wastewater Treatment Plant, the City wanted to fill in the swampy area south of the Wastewater Treatment Plant. We would accept any kind of debris ~~we could get~~ *which AP* to fill those areas in. This was in the time period between the *was surm* 1950s and 1970s.

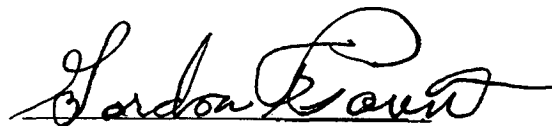
7. I recall that in the late 1930s, through the 1940s and ^{SEWAGE} into the early 1950s, there was a 28 to 30 inch pipe which ^{GP} ran ~~across the site and discharged raw sewage into the Bay.~~ ^{discharged} I have circled the area where the pipe discharged into the Bay on the attached aerial photograph and placed my initials ~~within~~ ^{GP} the circle. This pipe was one of the early sewer lines which was hooked up to the City of Ashland Wastewater Treatment Plant after it was constructed in 1951, in order to eliminate that sewage discharge into the Bay. I began working for the City of Ashland Wastewater Treatment Plant in 1952 and recall that the engineering firm working for the City on the plant was Greeley and Hansen.

8. During some construction in the 1950s, I recall that a line coming into the Wastewater Treatment Plant had to be repaired. During that repair work, an area around the pipe was excavated. The excavation dug into an oily waste product in the ground. This material was dug up by the City Wastewater Treatment Plant crews and, I believe, was disposed off site. It was normal to find this type of oily waste on the Site; it was well understood that a large area of the site was contaminated with this sort of material.

9. On the date of this Affidavit, I visited Kreher Park with representatives of Northern States Power Company and marked the locations I have described in this Affidavit on the attached aerial photograph.

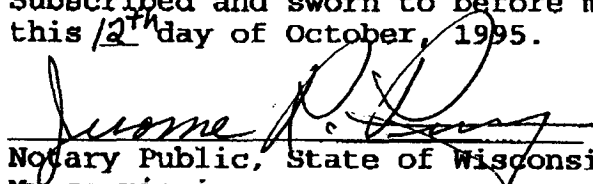
10. I have received no payment or benefit of any kind from any party for making this Affidavit.

Dated this 12th day of October, 1995.



Gordon F. Parent

Subscribed and sworn to before me this 12th day of October, 1995.


Notary Public, State of Wisconsin
My commission _____



JEROME R. PERRY
STATE OF WISCONSIN
NOTARY PUBLIC
My Commission Expires 11-16-97



AFFIDAVIT
OF
GORDON F. PARENT

STATE OF WISCONSIN)
) SS.
COUNTY OF ASHLAND)

I, GORDON F. PARENT, the undersigned, do hereby depose and state as follows:

1. I reside at 1412 Fifth Street East, Ashland, Wisconsin. Other than four years from 1948 to 1952 when I worked in Kenosha, I have been a life-long resident of Ashland.

2. I was born on September 4, 1928 and I am 69 years old.

3. As a child, I lived at 322 Willis Avenue and I used to play often in the area now known as Kreher Park with my brothers.

4. I recall that the Schroeder Lumber Company mill was nearing the end of its operation when my brother and I played in the area. The saw mill was still present when we played in the area and the shingle mill was still in operation.

5. When I was about six or seven years old, I recall seeing workers using tongs to pull railroad ties out of an aboveground, creosote dipping structure. The excess creosote was scraped off of the railroad ties after removal from the dipping structure. The treated ties were put into a pile and remained on the Schroeder Lumber Company property after the mill closed.

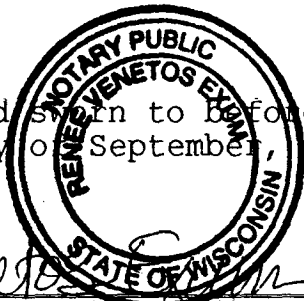

6. I recall the creosote dipping structure was framed with wooden planks on the side about three or four feet high. I believe the structure was bottomless. As kids, I recall throwing rocks into the structure. I was careful not to get creosote on myself because it irritated the skin.

7. I hereby reaffirm my prior Affidavit dated October 12, 1995, including the location of the structure. I have received no payment or benefit of any kind from any party for making this Affidavit.

Dated this 3rd day of September, 1998.


Gordon F. Parent

Subscribed and sworn to before me
this 3rd day of September, 1998.



Notary Public, State of Wisconsin
My Commission: 5/31/2001.

Case Number	Case Title	
98-NOEE-039	NSP Ashland – Kreher Park Site	
Activity		Date of Activity
Interview with Gordon Parent		October 19, 1998

Narrative¹

On October 19, 1998 at 11:45 a.m., Department of Natural Resources (WDNR) Environmental Warden Randal V. Falstad and Hydrogeologist James R. "Jamie" Dunn began an interview with Gordon F. Parent at his residence at 1412 5th Street in Ashland, WI. Dunn had arranged the interview by phone (715-682-9716) on the previous evening. Parent was interviewed as part of an investigation into identifying the parties that contributed to contamination that was found on the Lake Superior lakefront in Ashland. Parent had previously been interviewed by Northern States Power Company (NSP) and the Dunn brought a copy of the affidavit that Parent had provided to NSP along to the interview.

Parent stated that that he was born in 1928. He stated that when he was five to six years old, he had played in the area that was the Schroeder Mill site. He stated that he was aware that people are saying the mill had closed down in the early 30's but when he played there, the mill was at least partially in operation. There were horses there and some guys were working on the site. He stated that it might not have belonged to the Schroeder's anymore and the workers might not have been Schroeder's employees but there was still some work taking place at the site. He stated that it was possible that some of the work taking place there was clean-up work. Parent stated that he could remember that there was an above-ground tank at the site that contained coal tar and was used for dipping rail ties. He stated that this tank was between the pulp hoist road and the railroad tracks and was approximately in line with 3rd Avenue. He stated that the sides of the tank rose three to four feet above the ground. Parent stated that there were similar type tanks used about that same time period at the old shingle mill that was located on Willis Street. Parent felt that the dip tank at Schroeder's could be partially responsible for the contamination of the site.

Parent stated, however, that there was also a two inch pipe that came down the hill from the old gas plant that carried coal tar from the gas plant to the railroad tracks. Parent thought it was a two inch pipe although he said it could have been an 1 1/2" pipe. He stated that the pipe had been located in a ravine that was north of the gas plant. The pipe ended at the tracks where a manifold was attached to the pipe. He described the manifold as a device which had two or three connections that allowed that coal tar to be loaded onto a couple of railroad cars at one time. He stated that it appeared the coal tar was loaded into the cars by gravity due to the pressure of coming off the hill. He stated that there were railroad tank cars that were brought in to that area of the tracks that were used to transport the waste tar. He stated that there was a spur there so the railroad cars could be parked at that site. Parent was asked why he thought the Greenly and Hanson drawings for the area showed a coal tar dump in the area. Parent stated that he did not know.

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D01164

Warden Reporting	Date of Report	Exhibit Reference
Randal V. Falstad / James R. Dunn	October 19, 1998	

Parent stated that he had showed the NSP people where this manifold area was located and where the lines came down the hill when he had spoken to them. He described the area as being near the old railroad tracks and approximately 30 feet from where Schroeder's coal tar pit had been located. Parent stated that he could even remember telling NSP that it was a 2" pipe. Parent seemed unsure if he had given this information to the NSP people at the time of his affidavit or if it had been later. He stated he thought it might have been later. He stated that he thought he had given the information to a guy named Musso.

Parent stated that he had worked for the Ashland Wastewater Treatment Plant (WWTP) which was built on top of the site of the old Schroeder Mill site. Parent stated he was not there when the City of Ashland did their first dig for the plant. He stated he started there in 1952 and was there when the two additions were dug. Parent stated that there was a lot of slab-wood and sawdust that had to be dug out for the additions. He stated that that was because the old saw mill was up in the air and all that slab wood and sawdust fell under it. Parent stated that it was terrible that so much good wood, that we would use today, was wasted. Parent stated that part of his job duties at the WWTP was putting in the lawn that was located around the treatment plant. He stated that he had even taken out the tracks for the railroad spur where the train cars had been filled with coal tar in order to put in the lawn.

Parent was asked if, when he put in the lawn in this area he had observed spilled coal tar in the area that the train cars had been loaded. He replied that there were "definite signs". He stated that he did not think it was that bad. He stated that the WWTP employees were able to put fill over the spill site and were able to grow grass there. Parent was under the impression that if the spill site was too bad, the grass would have never grown there.

Parent stated that when the gas plant was converted to LP gas (1946-1947), the parts from the gas plant were taken down the hill and used for back-fill on the lakefront. He stated that he could remember the parts being hauled down on big trucks. He stated that he was unsure who the trucks belonged to. He stated that a lot of the back-fill that was used in the area came from the old Highway 2 bypass when that was redone. Parent stated that as part of the conversion to LP gas there were two pipes put in that ran down the hill to the railroad yard.

Parent stated that he did not know if the Schroeder Mill had caused the contamination or if NSP did. He stated that they were both there so "its six of one and a 1/2 dozen of the other". He stated that he guessed both had some responsibility. He stated, however, that the WWTP was not responsible for any contamination and had always tried to keep things clean.

The interview with Parent ended at 12:55 p.m.

Case Number	Case Title
98-NOEE-039	NSP Ashland - Kreher Park Site
Activity	Date of Activity
Interview with Gordon Parent	October 19, 1998

Narrative¹

On October 19, 1998 at 11:45 a.m., Department of Natural Resources (WDNR) Environmental Warden Randal V. Falstad and Hydrogeologist James R. "Jamie" Dunn began an interview with Gordon F. Parent at his residence at 1412 5th Street in Ashland, WI. Dunn had arranged the interview by phone (715-682-9716) on the previous evening. Parent was interviewed as part of an investigation into identifying the parties that contributed to contamination that was found on the Lake Superior lakefront in Ashland. Parent had previously been interviewed by Northern States Power Company (NSP) and the Dunn brought a copy of the affidavit that Parent had provided to NSP along to the interview.

Parent stated that that he was born in 1928. He stated that when he was five to six years old, he had played in the area that was the Schroeder Mill site. He stated that he was aware that people are saying the mill had closed down in the early 30's but when he played there, the mill was at least partially in operation. There were horses there and some guys were working on the site. He stated that it might not have belonged to the Schroeder's anymore and the workers might not have been Schroeder's employees but there was still some work taking place at the site. He stated that it was possible that some of the work taking place there was clean-up work. Parent stated that he could remember that there was an above-ground tank at the site that contained coal tar and was used for dipping rail ties. He stated that this tank was between the pulp hoist road and the railroad tracks and was approximately in line with 3rd Avenue. He stated that the sides of the tank rose three to four feet above the ground. Parent stated that there were similar type tanks used about that same time period at the old shingle mill that was located on Willis Street. Parent felt that the dip tank at Schroeder's could be partially responsible for the contamination of the site.

Parent stated, however, that there was also a two inch pipe that came down the hill from the old gas plant that carried coal tar from the gas plant to the railroad tracks. Parent thought it was a two inch pipe although he said it could have been an 1 1/2" pipe. He stated that the pipe had been located in a ravine that was north of the gas plant. The pipe ended at the tracks where a manifold was attached to the pipe. He described the manifold as a device which had two or three connections that allowed that coal tar to be loaded onto a couple of railroad cars at one

1

Warden Reporting	Date of Report	Exhibit Reference
Randal V. Falstad / James R. Dunn	October 19, 1998	

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time. He stated that it appeared the coal tar was loaded into the cars by gravity due to the pressure of coming off the hill. He stated that there were railroad tank cars that were brought in to that area of the tracks that were used to transport the waste tar. He stated that there was a spur there so the railroad cars could be parked at that site. Parent was asked why he thought the Greenly and Hanson drawings for the area showed a coal tar dump in the area. Parent stated that he did not know.

Parent stated that he had showed the NSP people where this manifold area was located and where the lines came down the hill when he had spoken to them. He described the area as being near the old railroad tracks and approximately 30 feet from where Schroeder's coal tar pit had been located. Parent stated that he could even remember telling NSP that it was a 2" pipe. Parent seemed unsure if he had given this information to the NSP people at the time of his affidavit or if it had been later. He stated he thought it might have been later. He stated that he thought he had given the information to a guy named Musso.

Parent stated that he had worked for the Ashland Wastewater Treatment Plant (WWTP) which was built on top of the site of the old Schroeder Mill site. Parent stated he was not there when the City of Ashland did their first dig for the plant. He stated he started there in 1952 and was there when the two additions were dug. Parent stated that there was a lot of slab-wood and sawdust that had to be dug out for the additions. He stated that that was because the old saw mill was up in the air and all that slab wood and sawdust fell under it. Parent stated that it was terrible that so much good wood, that we would use today, was wasted. Parent stated that part of his job duties at the WWTP was putting in the lawn that was located around the treatment plant. He stated that he had even taken out the tracks for the railroad spur where the train cars had been filled with coal tar in order to put in the lawn.

Parent was asked if, when he put in the lawn in this area he had observed spilled coal tar in the area that the train cars had been loaded. He replied that there were "definite signs". He stated that he did not think it was that bad. He stated that the WWTP employees were able to put fill over the spill site and were able to grow grass there. Parent was under the impression that if the spill site was too bad, the grass would have never grown there.

Parent stated that when the gas plant was converted to LP gas (1946-1947), the parts from the gas plant were taken down the hill and used for back-fill on the lakefront. He stated that he could remember the parts being hauled down on big trucks. He stated that he was unsure who the trucks belonged to. He stated that a lot of the back-fill that was used in the area came from the old Highway 2 bypass when that was redone. Parent stated that as part of the conversion to LP gas there were two pipes put in that ran down the hill to the railroad yard.

Parent stated that he did not know if the Schroeder Mill had caused the contamination or if NSP did. He stated that they were both there so "its six of one and a 1/2 dozen of the other". He stated that he guessed both had some responsibility. He stated, however, that the WWTP was not responsible for any contamination and had always tried to keep things clean.

The interview with Parent ended at 12:55 p.m.

STATE OF WISCONSIN

CIRCUIT COURT

ASHLAND COUNTY

NORTHERN STATES POWER CO., d/b/a
Xcel Energy, Inc.

Case No. 01-CV-76

DEPOSITION OF GORDON PARENT

Having been taken on the 16th day of October, 2001, at
Northern States Power, 301 East Lake Shore Drive,
Ashland, Wisconsin, 54806, at or about 11:15 a.m.

APPEARANCES:

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EXHIBITS:

MARKED

ID'D

G.Parent Exhibit No. 1 (Affidavit of Gordon Parent, 9/3/98)	4	37
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1 Ashland, Wisconsin.
2 Tuesday, October 16, 2001 - 11:15 a.m.
3 (G.Parent Exhibit Nos. 1-3 were marked
4 for identification by the Reporter.)
5 COURT REPORTER: Raise your right hand,
6 please. Do you solemnly swear that the
7 testimony you shall give in this matter shall be
8 the truth, the whole truth, and nothing but the
9 truth?
10 MR. PARENT: I do.
11 GORDON PARENT
12 HAVING BEEN FIRST DULY SWORN, TESTIFIED:
13 EXAMINATION
14 BY MR. FURLOW:
15 Q Mr. Parent, my name is Jon Furlow; I represent
16 NSP.
17 A Okay.
18 Q And I am going to ask you some questions today
19 about Schroeder Lumber Company and your best
20 recollections about the operations of Schroeder
21 Lumber.
22 If you don't understand something that
23 I say, would you let me know and I'll try to
24 make that clearer for you?
25 A Uh-hum.

1 Q And you have to answer audibly in these
2 depositions, yes and no and that type of thing,
3 okay?
4 A Um-hum.
5 Q So um-hum won't work, yes or no.
6 A That's a good start.
7 Q Well, we start slowly and build up from there.
8 So you have to answer yes or no audibly.
9 A Right.
10 Q Okay. Can you tell us your full name, please?
11 A My full name is Gordon Parent and I live 1412,
12 Fifth Street East, Ashland, and I am a lifetime
13 resident.
14 Q How old are you?
15 A 73.
16 Q Okay. When were you born?
17 A 1928.
18 Q Have you ever lived someplace besides Ashland?
19 A Other than Ashland, yes, I have. I lived in
20 Kenosha, Wisconsin, for four years.
21 Q What four years were those?
22 A Well, it was from before '52. I came back to
23 Ashland in '52. So it would be four years ahead
24 of that.
25 Q So from 1948 to 1952 you lived in Kenosha?

1 A Kenosha, yes, yes.

2 Q So before 1948 --

3 A Then I was back here and I moved from Ashland to

4 Kenosha and then moved back to Ashland after

5 four years of service down there.

6 Q Where did you go to school in Ashland?

7 A Depadua High School right across the way from

8 here.

9 Q I am going to ask you a question about a company

10 called Schroeder Lumber; do you know that

11 company?

12 A Yes, I do.

13 Q How do you know that company?

14 A Well, as kids we used to play on the property

15 which is just to our lakeside here to our

16 left -- to our right, I am sorry. And that was

17 part of our playground as far as living on the

18 lakefront of the City of Ashland.

19 Q Do you know something called Kreher Park?

20 A Yes, I do.

21 Q Is that the area that you used to play?

22 A Some of it, yes, but not as much as it would be

23 next to Schroeder's Mill, which was like I said

24 on Prentice Avenue rather than Willis Avenue.

25 Q Okay. Now how old were you when you played down

1 by Schroeder Lumber?

2 A Oh, six, seven, somewhere in there.

3 Q And I want you to go back in your mind to that

4 point in time, was Schroeder still in operation?

5 A Parts of it were, yes.

6 Q What parts were still in operation?

7 A Well, what we used to call the shingle mill,

8 which is on the east end, that is on Willis

9 Avenue.

10 Q Okay.

11 A And a big mill down here which is off Prentice

12 Avenue was closed but still there, still -- it

13 wasn't in operation, but it was still, the

14 buildings and all of the contents were still

15 there.

16 Q And I am going to show you a map here that we

17 have marked as Gordon Parent Exhibit No. 3.

18 A Yes.

19 J MR. FURLOW: I am out of order here.

20 THE WITNESS: Sorry about that.

21 MR. FURLOW: No, no, that's okay. I

22 was just telling Shari.

23 THE WITNESS: Oh, okay.

24 BY MR. FURLOW:

25 Q I have a map here of the Schroeder Lumber

1 Company property with the streets, Prentice
2 Third, Second, and I just want you to orient
3 yourself, Mr. Parent, to this map.

4 I have handed it to you so that
5 Prentice Avenue is right in front of you, and I
6 want you to pretend that you are walking down
7 Prentice Avenue for me. Okay?

8 A Yes.

9 Q And if you walk down Prentice Avenue which is
10 marked here on Exhibit No. 3, can you show me --
11 and just mark with my pen with a No. 1 -- where
12 the mill was?

13 A Well, the mill was over on this side here.
14 Right here. (Indicating)

15 Q Okay. Why don't you mark that.

16 A Okay. That is where the mill was, over there.
17 (Indicating)

18 Q Okay. And you put an "X" right now in the mill?

19 A Yes, basically.

20 Q Now was there something called the Pulp Hoist?

21 A The Pulp Hoist was off to the, further down, all
22 over on this side right here.

23 Q Can you put a circle where the Pulp Hoist was?

24 A These are railroad tracks, I presume.

25 Q Yes.

1 A The Pulp Hoist would have been in this area
2 right here. (Indicating)
3 Q Why don't you draw a circle there?
4 A (Witness complies.)
5 Q Now when you played down at the Schroeder Lumber
6 Company, did you ever see a tank with creosote
7 in it?
8 A Very definitely. Well, it wasn't creosote, it
9 was the -- I suspect the run-off from the gas
10 company at that time which was in business back
11 then when we were kids.
12 Q Okay.
13 A And I presume that, I don't remember what year
14 the gas company went out due to, in other words
15 the age of the system. It was -- well, let's
16 see now, I bought my house in the west end in
17 '52, right after I moved back here, and the gas
18 line that ran in front of my house was
19 deteriorated to a point of not being used.
20 Q Where was your house?
21 A The west end of Ashland, 501, Eleventh Avenue
22 West. So I am presuming the gas company went
23 out before that because the gas line was there,
24 but it wasn't being used. It was full of holes
25 due to deterioration.

1 Q Okay.

2 A Now what year, you people would know what year

3 the gas company shut down.

4 Q I am going to go back to the time when you were

5 playing at the Schroeder Lumber area?

6 A Okay.

7 Q Did you ever see railroad ties when you were

8 playing there?

9 A Yes, I did.

10 Q And if you can mark on this Exhibit No. 3 where

11 you would have seen those railroad ties.

12 A I wish that I would have brought my glasses.

13 They are sitting on my kitchen table.

14 MS. EGGLESON: I have some reading

15 glasses if you would like to borrow them.

16 THE WITNESS: I'll try them.

17 MS. EGGLESON: Okay.

18 BY MR. FURLOW:

19 Q Prentice Avenue for reference is right here.

20 A I am just trying to see where the railroad

21 tracks came down in here, because that

22 determines partly where the -- you have got me

23 confused here.

24 Q Okay. Let me try to unconfuse you. On

25 Exhibit No. 3 you have Prentice Avenue here.

1 A Right, I am looking at that.

2 Q You have the mill that you have marked with an

3 "X" here.

4 A Right.

5 Q And you have the Pulp Hoist --

6 A The Pulp Hoist, right.

7 Q -- that you have marked with the circle with an

8 "X" in it.

9 A Right. I am just trying to locate where the

10 mill was and where the railroad tracks were at

11 the time. They run here, presumably, that's the

12 railroad tracks. (Indicating)

13 Q Okay.

14 A To pinpoint a spot on this map would be

15 fairly -- I just don't know.

16 Q Let me represent to you that the railroad tracks

17 on Exhibit No. 3 are the lines that go parallel

18 to the shoreline.

19 And my question is^J-- and if you don't

20 remember, that's okay, just let me know that --

21 but can you tell me as you walk down Prentice

22 Avenue where you saw railroad ties?

23 A Well, it would be near the mill site for one

24 thing.

25 Q Okay. Can you put say a No. 1 where you saw

1 those railroad ties?

2 A I would have to put that down in here.

3 (Indicating)

4 Q Okay. Now did you ever see any treatment

5 facility where those railroad ties were treated?

6 A Yes, they were. Yes, it was, I should say.

7 Q Where did you see that?

8 A That's in the same spot, of course. To say the

9 least, they used to soak the ties in the vat

10 which was made out of timber.

11 Q Did you see the vat?

12 A Yes, you could.

13 Q And how was it that you saw the vat?

14 A Well, as kids, of course, you wander around, and

15 it was in the woods area. And in the meantime,

16 like I say, the vat was a place where they took

17 the ties from where they sawed them to put them

18 in there to soak them in creosote.

19 Q Okay. If you could mark with a No. 2 on Exhibit

20 No. 3 your best memory as to where that vat

21 would have been located?

22 A Well, it was closer to the Pulp Hoist. I would

23 say about there. It was closer to the lake

24 edge. (Indicating)

25 Q Was that inside the mill?

1 A No, no, no, no. That was between the Pulp Hoist
2 and the mill itself.

3 Q Okay. If the mill was where you put that "X,"
4 you have marked the "2" inside that "X," would
5 that be an accurate location for --

6 A Well, I don't know the dimensions of this, what
7 your picture is here for one thing.

8 Q Okay.

9 A I am saying that this tar pit was over here away
10 from the mill itself. I am saying about half a
11 block.

12 Q Okay. And as you walk down Prentice Avenue, was
13 the creosote container on your left or right as
14 you walk down Prentice Avenue?

15 A It would be on the left towards the lake.

16 Q Okay. Now how big was this vat?

17 A As I remember, I would say about 25 by 25 feet.

18 Q What was it made out of?

19 A Three-inch plank; three-inch hardwood plank.

20 Q How close did you get to it?

21 A We used to go right up to it.

22 Q Did you look inside?

23 A Oh, very definitely. And, of course, if you
24 touched it, the creosote would get on your hands
25 or whatever and it would burn you very severely.

1 Q How did you know it was creosote?
2 A Because it smelled like creosote.
3 Q What did it smell like?
4 A Pretty potent material. Like tar or worse than
5 tar, from that standpoint.
6 Q What color was it?
7 A Black, black.
8 Q Do you know how it got into the vat?
9 A I presume that they had a car to put that in
10 there, or some kind of cart or something,
11 because the vat was isolated from the mill. And
12 the isolation from the mill would have been some
13 way to have it, get it from some, I would
14 suppose containers of some sort.
15 Q Did you ever see --
16 A Whether 55 gallon barrels or what it was, I have
17 no idea.
18 Q Did you ever see somebody put the creosote
19 there? J
20 A No, it was always there when we were kids.
21 Q Now did you ever watch wood being treated in
22 that vat?
23 A Yes, we did.
24 Q Describe to me what you saw.
25 A Well, at the time they would push the ties in on

1 a, in a kind of a trough up there, and then they
2 would just lay them in the trough from the
3 standpoint of soaking or taking up space in
4 there as well as the creosote covering them.

5 Q Did you ever see them being taken out?

6 A Yes, I did.

7 Q How did they do that?

8 A And at the time they pulled them out with pipe
9 poles, which is a pole with a hook on the end.
10 And then they would take a paddle and scrape
11 them off and put them in a pile which was
12 alongside of it.

13 Q Did you watch them do this?

14 A I have seen the piles. I didn't watch them do
15 it from the standpoint of standing there and
16 watching their whole procedure.

17 Q You said you saw the piles?

18 A It was piles alongside the creosote pit, yes.

19 Q And where would the piles be if you were to look
20 on this Exhibit No. 3?

21 A Your map is very poor.

22 Q Okay. Let me try it this way. Do you know what
23 size of wood it was that they were treating in
24 that vat?

25 A Well, I suspect they were railroad ties which

1 is, I presume, eight-foot long and either six by
2 six or eight by eight footers, whatever they
3 were at the time.

4 Q Is that what you saw?

5 A I would say whatever they were at the time.
6 They were railroad ties, yeah.

7 Q Did you ever see telephone poles or longer poles
8 being treated?

9 A No, not in this particular place.

10 Q Did you see poles being treated somewhere else
11 on the Schroeder property?

12 A They could have down on Willis, but in this
13 area, no, I would say not.

14 Q Why do you say they could have treated telephone
15 poles down by Willis Avenue?

16 A Well, because they didn't have the same kind of
17 equipment down there as they had over here.

18 Q Okay. Tell me what kind of equipment they had
19 down by the mill, which is on the west side of
20 Prentice Avenue?

21 A Going back to the size of the structure, like I
22 was saying earlier, the dimensions would be 25
23 foot long by, oh, I don't know, six or eight
24 foot wide.

25 Q Dimensions of the vat?

1 A Of the vat, yes.

2 Q Did they have different equipment down by Willis
3 Avenue?

4 A Yes, they had other tanks down there, but what
5 the description of that was, I can't tell you.
6 I don't know.

7 Q Now I want to go back a moment to something you
8 had said earlier. You said when you played down
9 by the mill, it was at a time when it wasn't in
10 full operation?

11 A It was closed. At the time they had a watchman,
12 yes.

13 Q Now --

14 A When we --

15 Q Go ahead.

16 A When we were kids -- I am sorry -- when we were
17 kids, we played down there when the mill was in
18 operation.

19 Q Okay. How old were you?

20 A Again, seven, eight. Whatever I was at that
21 time.

22 Q Okay. Do you know when the Schroeder Lumber
23 Company closed?

24 A That I don't know.

25 Q Okay.

1 A All I know is the shingle mill down here was in
2 operation yet.

3 Q Okay. The shingle mill down by Willis Avenue?

4 A Down by Willis Avenue, yes.

5 Q Okay. Did you play down at the Schroeder Lumber
6 Company with anyone -- who did you play with
7 down there?

8 A Brothers.

9 Q Your brother, Ray?

10 A My brother, Ray, yes, basically.

11 Q Anyone else?

12 A Well, like I say, whether there was or wasn't at
13 the time, I don't remember that, but I know the
14 brothers were down there.

15 Q How sure are you, Mr. Parent, that you saw these
16 vats with the creosote in them?

17 A I am sorry.

18 Q How sure are you that you saw the vats with the
19 creosote?

20 A Well, as sure as I see you.

21 Q Okay. Let me just hand you, Mr. Parent, do you
22 remember signing an affidavit?

23 A Yes, I do.

24 Q Okay. And I am going to hand you Exhibit No. 1,
25 which I'll represent to you as an affidavit of

1 September 3, 1998. And I would like you to look
2 at the signature on the second page.

3 A That is mine.

4 Q And when you signed this, did you understand
5 what was in this affidavit?

6 A At the time I presume whatever I said was in the
7 affidavit. I didn't witness to say that was
8 what I had said at the time. I am not saying
9 that.

10 Q Okay. But is the information that you put in
11 the affidavit accurate?

12 A I would say to my knowledge at the time, yes,
13 definitely. That's why I gave the affidavit at
14 the time.

15 Q There is a reference in this affidavit in
16 Paragraph 4 to treated ties that were put in a
17 pile and remained on the Schroeder Lumber
18 Company property after the mill was closed.

19 A Yes.

20 Q And in what area were those treated ties put?

21 A Well, again, going back, I wish your map was a
22 little clearer. I wish you had one of the sort
23 like that because it had a little better layout
24 of the different things that were on it.

25 This here is a pretty screwed-up map, I

1 will tell you that.

2 Q I tell you what I am going to do, I am going to
3 make this Exhibit No. 4 -- or better yet, let's
4 take Exhibit No. 2, your affidavit, and show you
5 the attachment to your affidavit which we have
6 marked as Exhibit No. 2; do you see that?

7 A Okay.

8 Q That's the old Wastewater Treatment Plant here.

9 A Right.

10 Q And you have got Prentice Avenue right here. Do
11 you see that?

12 A Yes. I am looking for my layout from where I
13 was from the standpoint of where I was as kids.
14 (Witness reviews exhibit.)

15 Q Take all of the time that you need.

16 A I would say that the pond that we're talking
17 about, or the tar pit, would be approximately in
18 this area here. (Indicating) The reason that I
19 am saying this area here is because of where the
20 plant was and where I remember where the pit
21 was.

22 Q I am going to give you a marker, and if you
23 could please mark with an "X" on Exhibit No. 2
24 the area where you saw the creosote pit?

25 A I would say it is roughly in this area right

1 here. (Indicating)

2 Q All right. Now you have put a box in the area

3 where you saw the creosote pit?

4 A Yes.

5 Q Do you expect that box to be in scale, or is

6 that just a reference point?

7 A It is a reference point --

8 Q Okay.

9 A -- as to where the pit was. I am going by like

10 I say, where the plant was and where the pit was

11 when we took over and back -- basically back in

12 '52 when I first started working at the sewage

13 plant, the pit was still there.

14 The structure was gone, but the tar was

15 still there, the creosote was still there.

16 Q When did you go to work at the Wastewater

17 Treatment Plant?

18 A In 1952.

19 Q And the pit was still there?

20 A Yes.

21 Q Did you see it?

22 A Oh, very definitely.

23 Q What was inside of it?

24 A Creosote.

25 Q Okay. And was there an actual structure around

1 this pit?

2 A Not at the time when we started back in '52, no,

3 it was gone then.

4 Q Do you know what happened to it?

5 A Like anything else, I think anything just

6 deteriorates after a while and either goes back

7 into the ground or gets stolen and carried away.

8 Q As a kid, how often did you play around this

9 creosote area?

10 A Oh, at least once a week and maybe every day in

11 a week depending on what the climate was, you

12 know. Like say if it was good weather or bad

13 weather, sometimes you wouldn't be out there,

14 but sometimes you would.

15 Q Do you have any specific memories of incidents

16 where you were near that creosote pit?

17 A Yeah, if you got into it, you got hell when you

18 got home.

19 Q Is that right?

20 A Yeah, because you got it on your clothes and you

21 couldn't get it out.

22 Q Did that ever happen to you?

23 A Oh, very definitely, sure. If you got it on

24 your shoes, it was a telltale as to where you

25 were, you know, where you was for that day.

1 Q Were there rules about where you were supposed
2 to go?

3 A This reminds me of a story, and this is a true
4 story of a priest that used to come to the
5 sewage plant, Father Coleman, and my boss was a
6 fisherman and so was Father Coleman. And Father
7 Coleman would come to the sewage plant and my
8 boss would say to Father: Where were you today?
9 And he said: I was at church. And, of
10 course, in the meantime he was full of iron ore.
11 So in other words, he was on the oredock.

12 Q You knew he wasn't at church.

13 A And in the meantime he is telling everybody
14 that, you know, he was not fishing, that he was
15 in church.

16 Q That's kind of like you going home and you
17 having creosote on your clothes and you telling
18 your mom that you weren't at the creosote plant?

19 A Well, we wouldn't have called it the creosote
20 plant.

21 Q Right.

22 A But you weren't playing down at the Schroeder's
23 Mill or wherever you got the creosote.

24 Q Was there any other area where you played where
25 you saw creosote like you did in this area?

1 A Well, over in Willis Avenue that had creosote
2 troughs, too. But they were different, and I
3 don't remember them as well as I do this over
4 here because this is where we basically played,
5 we played over in this area by the mill.

6 Q Did you ever get creosote on your skin at all?

7 A What?

8 Q On your skin.

9 A Oh, very definitely. It burns you.

10 Q Did you ever throw rocks into the creosote
11 structure?

12 A I suppose we did. Yes, your Honor.

13 Q No, I am just asking you. Do you remember that
14 one way or the other?

15 A Well, I would say that I am sure that we did.

16 Q Okay.

17 A I mean, you can't stand by a lake without
18 throwing a rock in it, I don't care who it is.

19 Q Stands to reason.

20 A That's just automatically. You want to hear the
21 splash or whatever. The bigger the rock, the
22 more splash.

23 Q When you worked at the Wastewater Treatment
24 Plant -- let me back up. I might have asked you
25 this before and I apologize. Do you know how

1 the creosote got into that structure?

2 A That I don't know. Because like I said, we were

3 kids playing there, but we were never in touch

4 with the equipment that brought it there or how

5 it got there.

6 Q Did you ever see railroad cars along there?

7 A If that's true, then it was in the wrong place.

8 Because the railroad cars wouldn't have been

9 where the tar pit was.

10 Q Right.

11 A It had to be transported from wherever to the

12 tar pit. It was isolated from one to the other.

13 Q Okay. Now when you worked at the Wastewater

14 Treatment Plant, was there a time when you had

15 to dig up a sewer line?

16 A Quite a few times.

17 Q And was that in this park area?

18 A No, no, you are talking two different areas.

19 J The park area is way over here. (Indicating)

20 Q Okay. The Wastewater Treatment Plant, is that

21 the structure that's on this photograph?

22 (Indicating)

23 A It's what you see right there, yes.

24 Q Okay. And I am pointing now to the building on

25 the edge of this diagram.

1 A Well, yes. The Wastewater Treatment Plant took
2 up the whole corner of this map, if that's what
3 I am saying from that standpoint. And over the
4 years of additions, of course, we dug that area
5 up, and in the meantime running into pipes that
6 were there from Schroeder's Mill, as well as
7 material or pipes that were coming down to the
8 sewage plant from uptown.

9 Q And were you there when they actually did
10 excavation for these pipes?

11 A Oh, very definitely.

12 Q Did you actually watch them?

13 A Very definitely. Not when the plant was built.

14 Q No, but later on.

15 A In '52 I came back and the plant was already
16 built. It was just new yet. It hadn't been
17 used, hadn't been opened. As a matter of fact,
18 and I don't mean to, I was one of the first
19 operators to get hired to operate the sewage
20 plant.

21 Q And after a while there was some excavation for
22 a pipe?

23 A Very definitely, due to additions to the plant
24 or to expand it for more volume.

25 Q And you were there when that excavation

1 happened?

2 A Yes.

3 Q And when there was digging being done, what was

4 being dug up?

5 A Well, slabs and, of course, oodles and oodles of

6 water from the lake which filtered into the

7 area. Originally when the plant was built, and

8 now going back to the original part of the

9 plant, and I know something of it because when

10 we were -- actually when I first went to work,

11 the plant was not finished yet, so it was still

12 in construction.

13 Q Okay.

14 A And they told me at the time that in order to

15 build the plant, they had to dig a hole around

16 the building, around the site and backfill it

17 with clay in order to keep the lake out.

18 Q Okay.

19 A So they built what they called a cofferdam

20 around the area that they wanted to dig up at

21 that time. And then they dug inside that area

22 because they couldn't dig outside because it was

23 lake, and it was influenced by the lake water,

24 the depth of it.

25 Q Let me back up. When you did the excavation,

1 did you see any of this creosote material being
2 excavated?

3 A Oh, yes, very definitely.

4 Q And what happened when the excavation was being
5 done; where did that excavated material go, the
6 soils and the creosote material and the water
7 and things like that?

8 A Well, some of it was trucked away. I don't know
9 where it went. As far as whether they put it, I
10 can't tell you that because I didn't see the
11 other end. The only thing I seen was where they
12 were working on the system itself.

13 Q Okay.

14 A And we had at least four to six inches of muck
15 on the road which was full of oil and creosote.

16 Q Okay.

17 A And if you got it on your boots or whatever kind
18 of clothes you were wearing, of course, you had
19 a stinky mess. J

20 Q And where was that disposed of?

21 A I am sorry?

22 Q Where was that disposed of, this oil and mucky
23 stuff that was dug up?

24 A It wasn't disposed of. It was being dug out of
25 the area. When you have a shovel -- or I am

1 saying a crane, I guess, as I should say -- if
2 you bring up a crane full of diggings, of
3 course, there is water in it and oil because of
4 the area of what was being dug.

5 Q Okay. Did they ever put some of that back into
6 this area to the south of the --

7 A To my knowledge, no, it was trucked away at that
8 time, to my knowledge. Now if it was put over
9 in Kreher Park, I never seen it. If that's what
10 you are looking for.

11 Q And you said there were some pipes that were
12 underneath the Wastewater Treatment Plant, some
13 of the old Schroeder pipes?

14 A Yes.

15 Q Any of those lead into the lake?

16 A No, not at that time, no.

17 Q Was there another time when some pipes led to
18 the lake?

19 A The only pipe that I remember as a kid was right
20 about in here. (Indicating)

21 Q Okay. I want you to take this marker and just
22 draw a little pipe in the area that you remember
23 it being.

24 A Sure you do. And I am going according to the
25 area of where the plant was. I would say that

1 that pipe went in through here. (Indicating)
2 Q Okay.
3 A It came out just about on this corner as we know
4 it today. (Indicating)
5 Q Okay. Can you put a letter "A" there, please?
6 A (Witness complies.)
7 Q Now just because I have to talk to make sure
8 that this record sees it, what you have done,
9 Mr. Parent, is you have made a line and a letter
10 "A" on the aerial Exhibit 2, Exhibit No. 2.
11 Now is that where the pipe went into
12 the lake?
13 A I would say this is where the pipe went into the
14 lake, just off the plant itself.
15 Q Okay.
16 A Now it was only a small pipe. It was only to
17 drain this area here. (Indicating)
18 Q Okay. And why don't you put an "X" in the area
19 that you think was being drained?
20 A This area right here. (Indicating)
21 Q Okay. And do you know who put the pipe into the
22 lake?
23 A That I don't know. My brother and I have talked
24 about that. At one time you couldn't drive from
25 here to there because of the lake was right

1 A I never seen the trucks, no, no, I didn't see
2 the trucks.

3 Q Did you ever see dumped material between the
4 treatment plant and the --

5 A Oh, very definitely. There is one of them right
6 here on my hand.

7 Q Okay. Let's go back to that time. It is
8 helpful if you would let me finish my question
9 because it makes her crazy if we talk over each
10 other.

11 A Aren't you listening?

12 Q Yeah, but she has to type, too. So in the area
13 between the treatment plant and Ellis Avenue --

14 A She should pay attention to me.

15 Q -- and Ellis Avenue -- let's start over. In the
16 area between the treatment plant and Ellis
17 Avenue, did you observe dumped material there?

18 A Oh, very definitely.

19 Q And what time period was that? J

20 A It had to be before '52 because it was there
21 when we had the plant in operation.

22 Q All right. And what kind of dumped material did
23 you observe?

24 A Well, I have several. Um, I am trying to say,
25 jugs and snuff jars and jugs of clay pit style

1 materials that accumulated from the lake edge
2 that was dumped here, in this area here, that
3 wound up out in the lake and eventually washed
4 back into the shore due to tides and what have
5 you.

6 Q And did you ever see anyone dumping material in
7 this area?

8 A No, that was before my time. I presume the Pulp
9 Hoist did it, I presume.

10 Q And going back to the pipe that goes into the
11 bay that you have marked with a letter "A" --

12 A Yes.

13 Q -- when did you see that pipe; your best memory?

14 A When we were kids. When this area was still,
15 water comes and goes from the lake. At that
16 time we had a lot more water in the lake than we
17 have today. We're low tide right now.

18 Q Okay.

19 A But in those days the water used to infiltrate
20 into this area and then come back out. It was
21 like a tide. (Indicating)

22 Q It used to infiltrate into the area that you
23 marked with a letter "A" and come back out?

24 A It was behind there, yes.

25 * Q And you said you saw this pipe that you have

1 marked with a letter "A" as a kid?

2 A Yes.

3 Q About how old were you?

4 A Back when I was seven, eight or whenever. Like

5 I say, they used to drive through here with a --

6 in those days a horse and buggy yet. And this

7 area was actually under water at certain times

8 of the day when the tide was in.

9 Q And is this known as Pulp Hoist Road, this road

10 that goes along the --

11 A I would presume that is as good a name as any.

12 Q Was there a name that it was called at the time?

13 A I don't think it was like Water Street, or

14 anything else. I would say Pulp Hoist Road was

15 as good as any for it. I don't think there was

16 any name to it, to my knowledge.

17 Q Okay. But the pipe went across this road into

18 the lake?

19 A To drain this area, to drain this area back

20 here. (Indicating)

21 Q And that was about when you were seven or eight

22 you thought?

23 A Yes.

24 Q Now let me back up and I want to talk about this

25 creosote structure again. At one point there

1 was this structure and then there wasn't one; do
2 I have that right?

3 A There wasn't one when we started at the plant,
4 it had already deteriorated or whatever happened
5 to it in between. Now you have to remember the
6 time before the plant was built, there was a lot
7 of time in between there.

8 Q Let me back up. What I am just trying to
9 understand is: Is it fair for me to understand,
10 Mr. Parent, that at one time there was a
11 structure where this creosote was in, and then
12 over time the structure deteriorated and there
13 was nothing left?

14 A Yes.

15 Q Okay. I want to talk about the time when there
16 actually was a structure. Can you just describe
17 to me as best you can the dimensions and the
18 material of that structure?

19 A Well, it was made out of planks. And like I say
20 it was about 25 feet by -- oh, it is hard to say
21 in dimensions as far as seeing it as a kid, but,
22 um --

23 Q How high was it?

24 A I would say about three feet high; in other
25 words, the height of this table or thereabouts.

1 Q Okay. And how sure are you that you saw that
2 creosote structure?

3 A Like I see you.

4 Q You see me?

5 A And I seen the structure at that time. But,
6 again, deterioration over the years. I can't
7 tell you what happened to the structure.

8 Q That's fine.

9 A It was a good size structure.

10 Q That's fine. Mr. Parent, I think I asked you
11 about your Exhibit No. 1, that affidavit. I
12 just want to close things up by saying that I am
13 going to hand you Exhibit No. 2, which is a
14 second affidavit that you signed.

15 Is this your signature on the second
16 page?

17 A Yes, it is.

18 Q And when you signed Exhibit No. 2, was the
19 information accurate to the best of your
20 knowledge?

21 A At the time that I gave it to the secretary
22 which was present at that time, yes, whoever she
23 was.

24 Q Okay.

25 MR. FURLOW: Can we go off the record

1 for a second.

2 (Discussion held off the record.)

3 BY MR. FURLOW:

4 Q Let me clear something up, Mr. Parent. The

5 photograph, the aerial photograph that you have

6 been referring to that you have marked on --

7 A Yes.

8 Q -- that's attached to your Exhibit No. 2;

9 correct?

10 A Yes, it is, apparently.

11 Q That's your first affidavit?

12 A If you say so.

13 Q Okay. And it is the one that you signed --

14 A Yes, it is.

15 Q -- on October 12 of 1995?

16 A Yes, it is.

17 MR. FURLOW: Okay. Nothing further.

18 MS. GILBERT: I now have Exhibit No. 1

19 as his affidavit. Are you going to change it to

20 Exhibit No. 2.

21 MR. FURLOW: No, the month --

22 THE WITNESS: The reason I did that --

23 MR. FURLOW: Hold it, let me just clear

24 this up. I am sorry.

25 MS. GILBERT: I just want it to be

1 clear. You have this right now ID'd as Exhibit
2 2 and this is Exhibit 1. You really want this
3 to be the attachment to Exhibit 1?

4 MR. FURLOW: No, let me clear it up,
5 just so the record is clear. There were three
6 exhibits premarked before we started. There is
7 Exhibit No. 1, which was the two-page affidavit
8 of September 3, 1998. Do you have that one?

9 MS. GILBERT: Yes.

10 MR. FURLOW: There was Exhibit No. 2,
11 which was the two-page affidavit that has the
12 attachment.

13 MS. GILBERT: Okay.

14 MR. FURLOW: And we have been referring
15 in this deposition to the aerial photograph as
16 the attachment to Exhibit 2. And if I misspoke
17 on the record, that is cleared up.

18 MS. GILBERT: Okay.

19 MR. FURLOW: Okay. And then there is
20 Exhibit 3 which is a --

21 THE WITNESS: A very poor map.

22 MR. FURLOW: As the witness says, a
23 very poor map is Exhibit No. 3.

24 THE WITNESS: Well, I can see where
25 things are on this here where you don't on this

1 one.

2 MR. FURLOW: Right. You can see,
3 Mr. Parent, where things are on the aerial
4 photograph attached to Exhibit 2 better than you
5 could on the diagram of Exhibit 3?

6 THE WITNESS: No doubt in my mind, yes.

7 MR. FURLOW: Okay. That's all that I
8 have. I think that these folks may have some
9 questions for you.

10 EXAMINATION

11 BY MS. EGGLESON:

12 Q My name is Shari Eggleson, I represent the State
13 and the Department of Natural Resources, and I
14 am going to ask you a few questions, too.

15 Do you recall having talked to some
16 other representatives of the Department of
17 Natural Resources about this?

18 A Oh, yes, over the years, yes.

19 Q Okay. Did you talk to representatives of
20 Northern States Power more than twice before; in
21 other words, I guess that we have two affidavits
22 that you did in years past?

23 A I would say more than twice, yes.

24 Q Do you remember how many times you may have
25 talked to them?

1 A I would say three, but not more than three. I
2 think each time they took an affidavit of the
3 time, but I talked to them in between there at
4 different times.

5 Q Okay.

6 A Nothing was marked at that time to my knowledge.

7 Q Okay. When you talked to the people from the
8 Department of Natural Resources, did you tell
9 them anything of significance that didn't show
10 up on these affidavits that you have been
11 discussing with Mr. Furlow here?

12 A I maybe could have, but not to any significance.

13 Q Why don't I show you a copy of that, I have a
14 clean one here somewhere, let me just put my
15 hands on it, and I will give it to you.

16 MR. FURLOW: Sure. One second. Let me
17 get the last question read back because I was
18 not listening.

19 (Whereupon, the question and answer
20 Page 40, lines 7-12 was read by the reporter as
21 transcribed.)

22 (G.Parent Exhibit No. 4 was marked for
23 identification by the Reporter.)

24 BY MS. EGGLESON:

25 Q Mr. Parent, would you take a moment to look at

1 Exhibit 4 there and read it to yourself.

2 A Yes.

3 Q Would you do that right now, or are you a speed

4 reader?

5 A I did that. I thought that apparently you were

6 going to hand me something that was significant

7 to what we are doing.

8 Q Okay. So you have taken a look at this?

9 A Yes.

10 Q Do you recognize that as a summary of your

11 discussion with the DNR representatives back in

12 October of '98?

13 A I would presume it is, yes.

14 Q Well, I don't want you to presume. I want you

15 to take a look at it and tell me if you can

16 remember whether you think that accurately

17 summarizes your discussions with them.

18 MR. FURLOW: Maybe there is a section

19 that you can point to.

20 MS. EGGLESON: No, I want to verify the

21 whole thing.

22 MR. FURLOW: Okay.

23 THE WITNESS: I would say it is.

24 MS. EGGLESON: Okay. What can you tell

25 us about this two-inch pipe coming down the hill

1 from the old gas plant that's referenced in the
2 third paragraph there of Exhibit 4?
3 MR. FURLOW: One and a half inch pipe?
4 MS. EGGLESON: It says "two-inch pipe"
5 here.
6 THE WITNESS: Two-inch.
7 BY MS. EGGLESON:
8 Q What do you recall about that, Mr. Parent?
9 A Well, the pipe came down to a manifold.
10 MR. FURLOW: Wait a minute. I want to
11 just clarify here. You have two statements in
12 here. The interview says "two," and then he
13 says it is two or one and a half. Let's just
14 make sure.
15 MS. EGGLESON: Why don't you do that
16 when it's your turn to ask questions.
17 MR. FURLOW: Well, I think you are
18 misleading him. You are referencing something
19 as though it is, and he said two things in his
20 statement. So let's make sure that we're clear
21 on this.
22 BY MS. EGGLESON:
23 Q Mr. Parent, would you tell me about the pipe,
24 whatever size it was, coming down the hill from
25 the gas plant, please?

1 A I would say the pipe was a two-inch pipe and I
2 might have referenced it as an inch and a half
3 as I gauged the dimension. I would say the back
4 of that cup is a two-inch size. What can I say?
5 I -- the pipe came from apparently the
6 gas plant at the time. It came under the
7 tracks. It came to a manifold, which is a pipe
8 that displayed or you could run another line
9 from one to another. So it came down from the
10 gas plant, went to a manifold, and then they had
11 a flexible hose that went to the boxcar which is
12 where they put the oil from those days,
13 apparently, from the gas plant.
14 I didn't see where it came from. All
15 that I seen was the waste material from that
16 particular area.
17 Does that answer your question?
18 Q Yes, thank you. Was the area where that pipe
19 you have just described ended, the same area as
20 was drained by the pipe going into the lake?
21 A No, no. That was two blocks, block and a half,
22 two blocks -- a block and a half at least.
23 Q Was the time that you observed this pipe coming
24 down off the hill, the same timeframe you were
25 talking about earlier; in other words, when you

1 were six to eight years old?

2 A Yes.

3 Q Did you observe it any later than that?

4 A It was still there when we started the plant in

5 '52.

6 Q What happened to it then or after that?

7 A Well, I haven't been down by the plant as of

8 late, but it was in the bottom of a ravine at

9 that time. It came from a ravine that was

10 coming down the hill.

11 Q And was this the ravine that had the gas plant

12 on top of it?

13 A Basically, yes, it was right above that area.

14 Now in the meantime the railroad, of course,

15 changed in that area due to taking tracks out

16 and so on. And then we came along in '52 or

17 thereabouts, or maybe a little later than '52

18 and took the track out.

19) So at that time when we took the track

20 out, that gas plant was not in operation. So I

21 am saying it had to be before '52 because the

22 track was still being used in '52. So,

23 therefore, the gas plant must not have been in

24 operation at that time because of deterioration

25 due to age or what have you of the system. And

1 what happened to the pipe after that, I don't
2 know due to construction in that area.

3 MS. EGGLESON: Okay. I don't have any
4 other questions right now, Mr. Parent, but I
5 again would like to take a brief break before we
6 finish up here.

7 Maybe someone else has something.

8 MS. GILBERT: I have no questions.

9 MR. FURLOW: Carrie?

10 MS. WOLSKI: No, I don't have any
11 questions.

12 MR. FURLOW: I have one more before we
13 go on a break.

14 FURTHER EXAMINATION

15 BY MR. FURLOW:

16 Q When you talked about the pipe size, you picked
17 up the Styrofoam cup and pointed to the bottom;
18 correct?

19 A Yes. Approximately two inch.

20 Q So the pipe that you are talking about is
21 approximately the size of the bottom of this
22 Styrofoam cup which is --

23 A An inch and a half to two inches.

24 Q And you say the pipe went to a manifold?

25 A What?

1 Q The pipe went to a manifold?
2 A Yes.
3 Q And the manifold went to where?
4 A Well, the manifold was mounted on the ground
5 and, of course, the manifold also had a flexible
6 line that went into the boxcar, into the tank
7 car.
8 Q So the pipe then ultimately went into the
9 boxcar?
10 A Tank car.
11 Q Tank car?
12 A Yes.
13 Q Do you know what was in the pipe?
14 A I presume oil from the gas plant I suspect.
15 Q Did you ever see it?
16 A Oh, very definitely.
17 Q Was it black?
18 A Tar black, yes. Tar black, not creosote black.
19 Q Do you know what direction the product was
20 going; was it from down the hill to the boxcar
21 or from the boxcar to the plant?
22 A No, this was coming from the gas plant to the
23 lake. It was being disposed of, I suppose.
24 Q Into the boxcar?
25 A Into the tank car.

1 Q The tank car. Did you see the tank car?
2 A Yes.
3 Q Do you know what name was on it?
4 A I couldn't tell you whether it was Soo Line at
5 that time or whether it was -- you are asking me
6 for a little tag that was on the box car or tank
7 car.
8 Q Did you ever see the tank car leave?
9 A Yes, it was removed and then put back.
10 Q So that there would be a tank car that would get
11 filled and leave and another tank car would come
12 in its place?
13 A Basically, yes.
14 Q Do you know where it went?
15 A That I don't know either. The railroad hooked
16 onto it and wherever it went, I don't know.
17 Q I take it the tank car then was at the bottom of
18 the hill on the railroad tracks?
19 A Yes.
20 Q Was there any spillage onto the railroad tracks?
21 A Yes, definitely.
22 Q Did you ever see any workers of the railroad
23 there cleaning it up?
24 A No, I can't say that. It could have been NSP
25 people, but I didn't see that.

1 Q I want to go back just one moment to the aerial
2 photograph attached to Exhibit No. 2, the line
3 marked with a letter "A," that's the pipe into
4 the lake.

5 A Yes.

6 Q Do you know how big that was?

7 A I was just going to say -- what happened to my
8 pencil -- I would say this pipe was about 12
9 inches, 12-inch diameter.

10 Q Do you know what it was made out of?

11 A Corrugated pipe.

12 Q And again, the pipe that came down to the
13 railroad tracks, now I am talking the other pipe
14 now.

15 A Right.

16 Q What was that made out of?

17 A I would say steel pipe. I don't think it was
18 galvanized. I would say black iron, as I
19 remember. There is a definite difference
20 between galvanized and black iron.

21 Q It wasn't a box, was it?

22 A No,, just a pipe in the manifold.

23 MR. FURLOW: That's all that I have,
24 thanks.

25 MR. FURLOW: Shari, do you want to take

1 a couple of minutes?

2 MS. EGGLESON: Yes, thank you.

3 (Whereupon, a short break was taken

4 from 12:05 p.m. to 12:10 p.m.)

5 (G. Parent Exhibit No. 5 was marked for

6 identification by the Reporter.)

7 FURTHER EXAMINATION

8 BY MS. EGGLESON:

9 Q Mr. Parent, let me ask you a few more questions

10 about the tar pit that you referred to things

11 having been dipped into.

12 A Okay.

13 Q As I understood your description, this pit did

14 not have -- it had wooden walls but not a

15 bottom?

16 A Oh, very definitely it had a bottom.

17 Q It had a bottom?

18 A Oh, yes, yes. But when we started the plant

19 back in, going back to '52, the box was

20 completely gone.

21 Q Okay.

22 A The tar was still in the hole where the pit was.

23 Q Okay. So originally there had been a bottom --

24 A Very definitely.

25 Q -- in the wooden pit?

1 A Very definitely.

2 Q Okay. Was that bottom flush with the ground?

3 A It was laying on the ground, yes.

4 Q So was the pit heated in any way?

5 A Not to my knowledge, no. There was no heating

6 system that I knew of in that area.

7 Q Do you know who it was -- again, going back to

8 your childhood when you observed that tar pit

9 there -- who it was that was dipping lumber into

10 that tar pit?

11 A I would say the sawmill, Schroeder's Sawmill.

12 Q Why do you say that?

13 A Because that's who was making the ties out of

14 the logs that came from the lake.

15 Q Okay. Do you recall other than this two-inch

16 pipe that you described a little bit earlier

17 coming out of the ravine, do you recall noticing

18 any other discharges coming out of the ravine?

19 A Oh, very definitely, yes. We had sewer pipes

20 coming out of there, and they were draining in

21 either Prentice Avenue or -- I don't know what

22 the avenue is that's on the end -- but yes,

23 there were other lines coming in there, but they

24 were sewer lines or surface water lines.

25 Q Okay. Did you notice any other discharges that

1 contained any sort of creosote or coal tar or
2 anything other than --

3 A No.

4 Q No, okay.

5 A No.

6 Q I think that you started to make some sort of a
7 distinction between creosote and tar.

8 A Well, there is a definite difference.

9 Q Will you describe that for me?

10 A Well, creosote was made to absorb into wood as a
11 preservative. And, of course, tar was made to
12 lay down asphalt on the street, I guess is as
13 good a reference as I know.

14 Q And what would you say was in the tar pit that
15 you were talking about earlier?

16 A Creosote. And I would say that would be for
17 preservative of the log, or ties in this
18 particular case.

J 19 Q Okay. And you said that you didn't know where
20 that had come from?

21 A No, the structure was there. But like I said,
22 how the materials got from one to the other, I
23 have no idea.

24 Q Now we have come up with what I am hoping is a
25 better site diagram than we have been using.

1 A Yes, it is, very definitely.

2 Q Let me represent to you that we believe that

3 this is a copy of a 1939 aerial photo of the

4 area. And let me ask you to take a look at that

5 and see if you can orient yourself and recognize

6 landmarks on there and I am going to ask you to

7 locate some things.

8 A (Witness reviews map.)

9 Q Okay. Mr. Parent, is that a more --

10 A Definitely it is, a more detailed map.

11 Q Okay. Do you see Prentice Avenue on there?

12 A (No audible response.)

13 Q Is this Prentice Avenue here?

14 A I am just trying to see what's over here on this

15 side of the railroad --

16 Q Okay. Well, actually I think that we don't --

17 for purposes of today's discussion -- don't care

18 what is on the other side of the railroad

19 tracks.

20 MR. FURLOW: Why don't you point out,

21 Shari, what's what.

22 BY MS. EGGLESON:

23 Q Would that be the gas plant, those two white

24 circles?

25 A That's the gas plant as I remember, yes.

1 Q Okay. And would that be Prentice Avenue then
2 just over here?
3 A I would suspect right here, yes.
4 Q And the Wastewater Treatment Plant is the
5 structure out in the lake northwest of the gas
6 plant? Well, the site of the Wastewater
7 Treatment Plant.
8 A Yes, it could very well be.
9 Q Would that have been old lumber mill buildings
10 back in 1939?
11 A I would suspect it is. It is not the sewage
12 plant.
13 Q Okay. Now --
14 A I would say it was the Schroeder Mill buildings
15 of the trams and stuff that used to come out
16 here from there as I remember.
17 Q Okay. Now can you tell where on that diagram
18 the tar pit we have been discussing was?
19 A I would say about in this area right here.
20 (Indicating)
21 Q You have put a little rectangle there where you
22 think the tar pit was?
23 A Yes, it was to the west of the plant -- or west
24 of the mill.
25 Q Okay. And were there any other pits or pipes

1 that we have been discussing that you can locate
2 better on this diagram that you want to mark on
3 there?

4 A It is going to be a really rough reference
5 because if this was Prentice Avenue and the
6 plant was here, the gas plant was there, I would
7 have to say there was a ravine through here that
8 came out into this area here. (Indicating)

9 Q Why don't you put a circle in the area where the
10 ravine pipe came out into?

11 A Well, I presume that is the ravine that we see
12 where the railroad track is right here. And I
13 would say roughly -- (Indicating)

14 Q That circle there?

15 A Yes.

16 Q Okay. Here is the rectangle for the tar pit and
17 the circle for the ravine.

18 A I would say that is as close as I can remember.

19 Q Do you remember, Mr. Parent, if there were
20 railroad ties being cut on the property, where
21 that was?

22 A It would have been right here. (Indicating)

23 Q The circle right next to the tar pit rectangle
24 there?

25 A Yes.

1 Q Okay.

2 MS. EGGLESON: I think that's all of

3 the questions that I have.

4 MR. FURLOW: Carrie, do you have any?

5 MS. WOLSKI: No, I don't.

6 MS. EGGLESON: I think Janet had some.

7 THE WITNESS: And this is to do with

8 the tar pit or the creosote pit of yesteryear

9 from Schroeder Mill. This has nothing to do

10 with Kreher Park, because I have been questioned

11 about Kreher Park.

12 MR. DUNN: Okay. I made a mistake a

13 number of years ago at a public meeting of

14 calling the whole thing Kreher Park, and it is

15 kind of understood that Kreher Park is to the

16 east of Prentice Avenue and this park area to

17 the west of Prentice Avenue is --

18 MS. EGGLESON: Unnamed.

19 MR. DUNN: -- yes, unnamed. A lot of

20 people don't recognize this as Kreher Park. It

21 is the Wastewater Treatment Plant property type

22 of thing.

23 MR. FURLOW: Thank you. That explains

24 a lot. Janet, do you have questions of this

25 witness?

1

EXAMINATION

2 BY MS. GILBERT:

3 Q Mr. Parent, my name is Janet Gilbert. I
4 represent Wisconsin Central. We are the
5 railroad that now operates down in front of
6 the --

7 A There was a Wisconsin Central way back, too, now
8 that you mention the name.

9 Q Yes, there was a Wisconsin Central way back at
10 the turn of the century.

11 A Are you still mad at me yet for taking the
12 railroad tracks out of there?

13 Q No. We're the new Wisconsin Central.

14 A You are the new regime.

15 Q Yes. I wanted to ask you just three brief
16 questions about the area where the little
17 two-inch pipe came to the manifold.

18 A Okay.

19 Q I think you indicated the manifold went to a
20 flexible pipe?

21 A Yes, it did.

22 Q And the flexible pipe went into the --

23 A The tank car, yes.

24 Q Okay. It was. You are clear it was a tank car?

25 A Oh, very definitely, yes.

1 Q And then I think you mentioned that there was in
2 that area where the tank car was loaded by the
3 flexible pipe, there was some spilling of
4 whatever the material was.

5 A Right.

6 Q Is that correct?

7 A Yes.

8 Q And was it just a dripping or a spill? Can you
9 describe that a little bit more.

10 A Well, like anything else, when water meets oil,
11 the oil goes to the top and the water goes to
12 the bottom. So I presume again, and this is
13 back from them days of knowing the difference
14 between water and oil.

15 Water filled a boxcar from wherever it
16 came from up on the hill through this pipe that
17 we were referring to from the steam car from the
18 gas plant. And then the water would go to the
19 bottom and the oil would come up in the boxcar,
20 in the tank car.

21 Q All right.

22 A Okay. So when it came up in the tank car due to
23 where the water came from, it flushed the oil
24 off the top of the tank car.

25 Q And that's what you are referring to as to what

1 would have dripped --

2 A Yes, ma'am.

3 Q -- to the ground?

4 A Yes, ma'am, definitely. And it was due to

5 water, maybe rain that particular time or

6 whatever that filled the boxcar full of water

7 instead of the tar, or the tar or the run-off of

8 whatever came from the, from the --

9 Q Again, you said "boxcar." I need you to

10 clarify.

11 A No, tank car, tank car. Definitely a tank car.

12 Q So this spilling is sort of a flush-off of the

13 top?

14 A Due to the water being in the car, into the tank

15 car, yes.

16 Q One last question. The people that you saw

17 working around the manifold and with the

18 flexible pipe, do you know --

19 A NSP people at that time or Lake Superior

20 District Power Company in them days, I guess.

21 Q So they were NSP or Lake Superior Power Company

22 people.

23 A Whatever it was called.

24 Q All right. Thank you very much.

25 MS. GILBERT: That's all that I have.

1 MR. FURLOW: Just a couple of
2 follow-ups.

3 FURTHER EXAMINATION

4 BY MR. FURLOW:

5 Q How did you know that they were NSP people
6 working by that car?

7 A I am not saying NSP, Lake Superior.

8 Q You don't know who for sure it was?

9 A Well, who owns the power company today? You
10 know, I don't know that either. Yesterday it
11 was NSP and today -- who knows.

12 Q How do you know it was gas plant people?

13 A Because they were putting this particular pipe
14 into the tank car.

15 Q Couldn't it have been railroad people that were
16 putting it into the tank car?

17 A I don't think so.

18 Q Okay. Why not?

19 A No, because it was part of the gas operation at
20 the time.

21 Q Okay.

22 A It had to be Lake Superior District Power
23 Company.

24 Q Were they wearing uniforms?

25 A No. Not too many of those people wore uniforms.

1 Q Did you know any of these people personally?

2 A No, I couldn't say that.

3 Q Did you recognize them at all by their

4 appearance?

5 A I knew Gas House Pete.

6 Q But Gas House Pete wasn't down there, was he?

7 A He could have been.

8 Q Do you remember seeing him down there?

9 A I don't know that. I wouldn't say that. I am

10 just saying it could have been Gas House Pete,

11 he was short and stocky.

12 Q Do you remember one way or the other whether

13 railroad people might have been there as well

14 helping?

15 A Other than picking up the tank car, I would say

16 no.

17 Q And how do you know that? I am just trying to

18 understand how you know that these were gas

19 company people. J

20 A It was their manifold.

21 Q How did you know it was their manifold?

22 A Because they were the ones attending to it. You

23 see this tank car was there for a reason at the

24 time, and it was to catch whatever -- you

25 apparently were involved with it. Do you

1 remember the chips from the gas being made
2 during that far back?

3 MR. DUNN: I remember that they were
4 sometime in the '80's they were excavated, but I
5 was not directly involved.

6 BY MR. FURLOW:

7 Q Let me follow up on something, Mr. Parent. You
8 had marked on -- let me just make sure I
9 understand something.

10 The people that you saw working by the
11 manifold, can you tell me today who those people
12 were for sure?

13 A I would say no doubt in my mind they would have
14 been from the gas people, from making the city
15 gas.

16 Q And that's based on the fact that the manifold
17 you thought was theirs?

18 A The tank car wouldn't have been there had it not
19 been for something that was a by-product of the
20 gas plant.

21 Q Okay. And do I understand correctly that as you
22 sit here today, that you can't tell me who the
23 people were, and it is not someone that you
24 recognized around town before; correct?

25 A No, definitely, no.

1 Q Okay. And had you recognized any of those
2 people you saw by the manifold around town?
3 A No.
4 Q Okay. You marked on the aerial photograph
5 attached to Exhibit 2 a pipe that went, a
6 12-inch pipe that went into the bay.
7 Could you mark the same location of
8 that pipe on Exhibit No. 5 for me?
9 A You got to remember that the shoreline is a lot
10 different on this map than it was in the days of
11 that map.
12 Q I understand. Do you see where this area is on
13 this map? (Indicating)
14 A Yes.
15 Q Where is that?
16 A I am just looking here.
17 Q Okay.
18 A It has to be in this corner here someplace.
19 Q Can you draw on this Exhibit No. 5 where that
20 pipe would be.
21 A (Witness complies.)
22 Q And just put a letter "A" there so we know.
23 A (Witness complies.)
24 Q Okay. Just for the sake of the record, on
25 Exhibit No. 5, Mr. Parent, you have marked with

1 two parallel lines and an "A" which looks like a
2 triangle where the 12-inch pipe was; correct?

3 A Right.

4 MR. FURLOW: That's all that I have.

5 FURTHER EXAMINATION

6 BY MS. EGGLESON:

7 Q Mr. Parent, you were mentioning something about
8 some chips that got dug up, do you --

9 A Chips, I am sorry.

10 Q Wood chips?

11 A The gas was made from wood chips.

12 Q Okay.

13 A And I presume that. Again, and I am presuming
14 as a kid, and as I got older and seen what was
15 going on, that's what made the gas, the city
16 gas, when they burned those chips or cooked them
17 in a particular system that they had at the time
18 in the carbine on the north door. There was
19 quite a bit of equipment in there that, I
20 presume, cooked the chips to make the gas.

21 Q Do you recollect finding blue chips in the fill
22 material when it was excavated?

23 A There was so much wood and parts of trees that
24 there would be no distinguishing any particular
25 thing, one or the other.

1 Q Okay.

2 MS. EGGLESON: I don't have any other

3 questions then.

4 MR. FURLOW: I have one other follow-up

5 and it is not a follow-up, I apologize.

6 FURTHER EXAMINATION

7 BY MR. FURLOW:

8 Q I want to go back for a moment. You talked

9 about the structure where the creosote was, and

10 I think Ms. Eggleson had asked you about the

11 bottom.

12 A Yes.

13 Q Did you actually see the bottom of the tank?

14 A Oh, no, it was full of creosote.

15 Q Okay. How do you know there was a bottom?

16 A Because it wasn't running out.

17 Q Do you know what the bottom was made out of?

18 A I would suspect the same planks because they

19 were bolted together.

20 Q Did you ever see it though?

21 A What's that?

22 Q Did you ever see it?

23 A The bottom?

24 Q Right.

25 A No.

1 Q Okay.

2 MR. FURLOW: That's all that I have.

3 MS. EGGLESON: I don't have any further

4 questions.

5 MR. FURLOW: I think that we are done.

6 Thank you very much.

7 (Whereupon, the above proceedings

8 concluded at 12:30 p.m.)

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1 STATE OF WISCONSIN)
2)
3 COUNTY OF ASHLAND)

4 I, Susan K. Edwards, a Notary Public in and for the
5 State of Michigan, do hereby certify that Gordon Parent,
6 the witness named herein, personally appeared before myself
7 on the 16th day of October, 2001, commencing at 11:15 a.m.
8 at the XCEL ENERGY OFFICE, Ashland, Wisconsin 54806, and
9 was by me sworn to testify the truth and nothing but the
10 truth in the within titled cause.

11 That said deposition was reported by me as a court
12 reporter and disinterested person, and was thereafter
13 transcribed into typewritten form under my direction.

14 And I further certify that I am not of counsel or
15 attorney for either or any of the parties to said
16 deposition, nor in any way interested in the outcome of the
17 cause named in the caption.

18 I have hereunto set my hand and affixed my seal of
19 office this 20th day of October, 2001.

20

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23

24

25

Susan K. Edwards

SUSAN K. EDWARDS - NOTARY PUBLIC
IN AND FOR THE STATE OF MICHIGAN

My commission expires: July 8, 2006

AFFIDAVIT
OF
GORDON F. PARENT

STATE OF WISCONSIN)
) SS.
COUNTY OF ASHLAND)

I, GORDON F. PARENT, the undersigned, do hereby depose and state as follows:

1. I reside at 1412 Fifth Street East, Ashland, Wisconsin. Other than four years from 1948 to 1952 when I worked in Kenosha, I have been a life-long resident of Ashland.

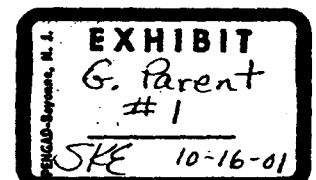
2. I was born on September 4, 1928 and I am 69 years old.

3. As a child, I lived at 322 Willis Avenue and I used to play often in the area now known as Kreher Park with my brothers.

4. I recall that the Schroeder Lumber Company mill was nearing the end of its operation when my brother and I played in the area. The saw mill was still present when we played in the area and the shingle mill was still in operation.


5. When I was about six or seven years old, I recall seeing workers using tongs to pull railroad ties out of an aboveground, creosote dipping structure. The excess creosote was scraped off of the railroad ties after removal from the dipping structure. The treated ties were put into a pile and remained on the Schroeder Lumber Company property after the mill closed.

6. I recall the creosote dipping structure was framed with wooden planks on the side about three or four feet high. I believe the structure was bottomless. As kids, I recall throwing rocks into the structure. I was careful not to get creosote on myself because it irritated the skin.

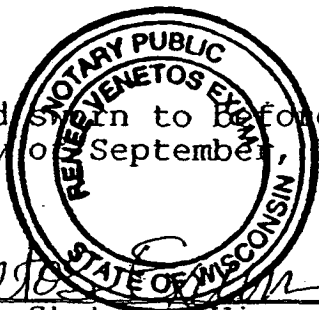



7. I hereby reaffirm my prior Affidavit dated October 12, 1995, including the location of the structure. I have received no payment or benefit of any kind from any party for making this Affidavit.

Dated this 3rd day of September, 1998.


Gordon F. Parent

Subscribed and sworn to before me
this 3rd day of September, 1998.



Notary Public, State of Wisconsin
My Commission: 5/31/2001.

AFFIDAVIT OF GORDON F. PARENT

STATE OF WISCONSIN)
)
 COUNTY OF ASHLAND)

ss.

I, GORDON F. PARENT, the undersigned, hereby make the following statement:

1. I reside at 1412 Fifth Street East, Ashland, Wisconsin 54806.

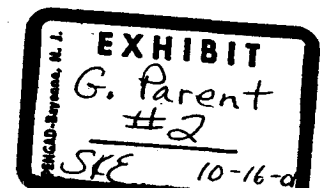
2. I am a 66 year-old, life-long resident of Ashland. As a child I lived on Willis Avenue and Fourth Street East in Ashland. I used to play in the area now known as Kreher Park.

3. I had a variety of jobs at the City of Ashland Wastewater Treatment Plant, for a period of 34 years in total, from 1952-1986. During my later years with the City, I was employed as a Sewage Utility Operator.

4. I recall that when I was a child, the Schroeder Lumber Company was still in operation at the site now called Kreher Park (Site). I observed the Schroeder Lumber Company employees dip railroad ties into an above-ground structure, approximately 50 feet by 50 feet, made of wood planks, which contained creosote or coal tar. I recall that when the ties were lifted out of the structure, I could see the creosote/coal tar material drip onto the ground. I also recall that when this structure was demolished, the tars it contained were allowed to sink into the ground. This formed a depression in the ground at the approximate location which I have circled on the attached aerial photograph; I have also placed my initials within the circle.

5. I recall that when I was a young man and ~~continuing~~ *AP* during my employment at the Wastewater Treatment Plant, that municipal waste was dumped along the west end of the Site both in Chequamegon Bay and along the shoreline of the Bay. I have circled this location on the attached aerial photograph and placed my initials within the circle. This waste consisted of all types of demolition debris and municipal solid waste, including cans, bottles and all types of household waste. Among the things I recall being disposed there were an entire automobile, which I believe may have been a 1936 Essex, and a ring which I found. I have had the stone from that ring remounted into a ring which I still wear.

6. During my employment with the Wastewater Treatment Plant, the City wanted to fill in the swampy area south of the Wastewater Treatment Plant. We would accept any kind of debris ~~we could get~~ *when* to fill those areas in. This was in the time period between the ~~was~~ 1950s and 1970s.



7. I recall that in the late 1930s, through the 1940s and ^{OP} into the early 1950s, there was a 28 to 30 inch pipe which ran ^{disc} across the Site and discharged raw sewage into the Bay. I have circled the area where the pipe discharged into the Bay on the attached aerial photograph and placed my initials within the circle. This pipe was one of the early sewer lines which was hooked up to the City of Ashland Wastewater Treatment Plant after it was constructed in 1951, in order to eliminate that sewage discharge into the Bay. I began working for the City of Ashland Wastewater Treatment Plant in 1952 and recall that the engineering firm working for the City on the plant was Greeley and Hansen.

8. During some construction in the 1950s, I recall that a line coming into the Wastewater Treatment Plant had to be repaired. During that repair work, an area around the pipe was excavated. The excavation dug into an oily waste product in the ground. This material was dug up by the City Wastewater Treatment Plant crews and, I believe, was disposed off site. It was normal to find this type of oily waste on the Site; it was well understood that a large area of the site was contaminated with this sort of material.

9. On the date of this Affidavit, I visited Kreher Park with representatives of Northern States Power Company and marked the locations I have described in this Affidavit on the attached aerial photograph.

10. I have received no payment or benefit of any kind from any party for making this Affidavit.

Dated this 12th day of October, 1995.

Gordon F. Parent

Gordon F. Parent

Subscribed and sworn to before me this 12th day of October, 1995.

Jerome R. Perry
Notary Public, State of Wisconsin
My commission _____



JEROME R. PERRY
STATE OF WISCONSIN
NOTARY PUBLIC
My Commission Expires 11-16-97



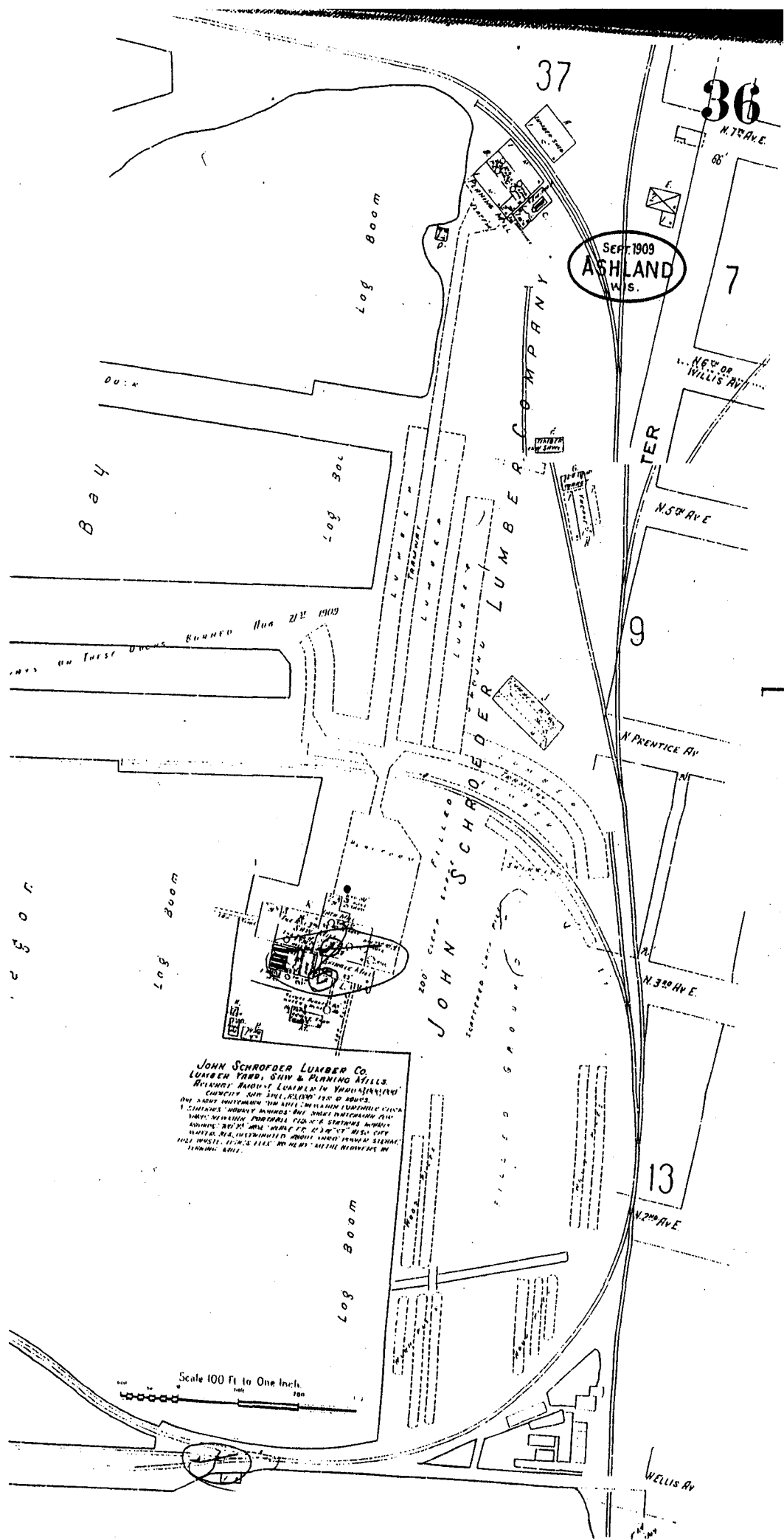


EXHIBIT
G. Parent
#3
SKF 10-16-01

Case Number 98-NOEE-039	Case Title NSP Ashland – Kreher Park Site
Activity Interview with Gordon Parent	Date of Activity October 19, 1998

Narrative¹

On October 19, 1998 at 11:45 a.m., Department of Natural Resources (WDNR) Environmental Warden Randal V. Falstad and Hydrogeologist James R. "Jamie" Dunn began an interview with Gordon F. Parent at his residence at 1412 5th Street in Ashland, WI. Dunn had arranged the interview by phone (715-682-9716) on the previous evening. Parent was interviewed as part of an investigation into identifying the parties that contributed to contamination that was found on the Lake Superior lakefront in Ashland. Parent had previously been interviewed by Northern States Power Company (NSP) and the Dunn brought a copy of the affidavit that Parent had provided to NSP along to the interview.

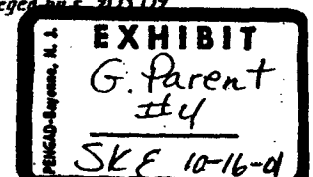
Parent stated that that he was born in 1928. He stated that when he was five to six years old, he had played in the area that was the Schroeder Mill site. He stated that he was aware that people are saying the mill had closed down in the early 30's but when he played there, the mill was at least partially in operation. There were horses there and some guys were working on the site. He stated that it might not have belonged to the Schroeder's anymore and the workers might not have been Schroeder's employees but there was still some work taking place at the site. He stated that it was possible that some of the work taking place there was clean-up work. Parent stated that he could remember that there was an above-ground tank at the site that contained coal tar and was used for dipping rail ties. He stated that this tank was between the pulp hoist road and the railroad tracks and was approximately in line with 3rd Avenue. He stated that the sides of the tank rose three to four feet above the ground. Parent stated that there were similar type tanks used about that same time period at the old shingle mill that was located on Willis Street. Parent felt that the dip tank at Schroeder's could be partially responsible for the contamination of the site.

Parent stated, however, that there was also a two inch pipe that came down the hill from the old gas plant that carried coal tar from the gas plant to the railroad tracks. Parent thought it was a two inch pipe although he said it could have been an 1 1/2" pipe. He stated that the pipe had been located in a ravine that was north of the gas plant. The pipe ended at the tracks where a manifold was attached to the pipe. He described the manifold as a device which had two or three connections that allowed that coal tar to be loaded onto a couple of railroad cars at one

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Warden Reporting Randal V. Falstad / James R. Dunn	Date of Report October 19, 1998	Exhibit Reference
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This document was produced as a result of an official Law Enforcement investigation. Contents, in whole or part, are privileged by s. 905.09 Wis. Stats., and may not be used without express permission of the Wisconsin Warden service or appropriate prosecutor.



time. He stated that it appeared the coal tar was loaded into the cars by gravity due to the pressure of coming off the hill. He stated that there were railroad tank cars that were brought in to that area of the tracks that were used to transport the waste tar. He stated that there was a spur there so the railroad cars could be parked at that site. Parent was asked why he thought the Greenly and Hanson drawings for the area showed a coal tar dump in the area. Parent stated that he did not know.

Parent stated that he had showed the NSP people where this manifold area was located and where the lines came down the hill when he had spoken to them. He described the area as being near the old railroad tracks and approximately 30 feet from where Schroeder's coal tar pit had been located. Parent stated that he could even remember telling NSP that it was a 2" pipe. Parent seemed unsure if he had given this information to the NSP people at the time of his affidavit or if it had been later. He stated he thought it might have been later. He stated that he thought he had given the information to a guy named Musso.

Parent stated that he had worked for the Ashland Wastewater Treatment Plant (WWTP) which was built on top of the site of the old Schroeder Mill site. Parent stated he was not there when the City of Ashland did their first dig for the plant. He stated he started there in 1952 and was there when the two additions were dug. Parent stated that there was a lot of slab-wood and sawdust that had to be dug out for the additions. He stated that that was because the old saw mill was up in the air and all that slab wood and sawdust fell under it. Parent stated that it was terrible that so much good wood, that we would use today, was wasted. Parent stated that part of his job duties at the WWTP was putting in the lawn that was located around the treatment plant. He stated that he had even taken out the tracks for the railroad spur where the train cars had been filled with coal tar in order to put in the lawn.

Parent was asked if, when he put in the lawn in this area he had observed spilled coal tar in the area that the train cars had been loaded. He replied that there were "definite signs". He stated that he did not think it was that bad. He stated that the WWTP employees were able to put fill over the spill site and were able to grow grass there. Parent was under the impression that if the spill site was too bad, the grass would have never grown there.

Parent stated that when the gas plant was converted to LP gas (1946-1947), the parts from the gas plant were taken down the hill and used for back-fill on the lakefront. He stated that he could remember the parts being hauled down on big trucks. He stated that he was unsure who the trucks belonged to. He stated that a lot of the back-fill that was used in the area came from the old Highway 2 bypass when that was redone. Parent stated that as part of the conversion to LP gas there were two pipes put in that ran down the hill to the railroad yard.

Parent stated that he did not know if the Schroeder Mill had caused the contamination or if NSP did. He stated that they were both there so "its six of one and a 1/2 dozen of the other". He stated that he guessed both had some responsibility. He stated, however, that the WWTP was not responsible for any contamination and had always tried to keep things clean.

The interview with Parent ended at 12:55 p.m.



EXHIBIT
G. Parent
#5
11-11-39

1939

c

AFFIDAVIT
OF
TOM ROY

STATE OF WISCONSIN)
) ss.
COUNTY OF ASHLAND)

I, TOM ROY, the undersigned, do hereby depose and state as follows:

1. I reside at 515 St. Claire St., Ashland, Wisconsin. I was born on June 12, 1916 and I am 82 Years old. I am a lifelong resident of Ashland and have lived at or near my current residence for most of my life.

83 T.E.R.
2. As a boy, I attended the St. Agnes School which is located on the top of the bluff and adjacent to Kreher Park. I spent time during my childhood playing in the area now known as Kreher Park but at that time it was occupied by Schroeder Lumber Company.

3. In approximately 1926 to 1929, when I was about 10 to 13 years old, I recall observing Schroeder Lumber Company workers dipping railroad ties into a tub-like above ground structure just west of Prentice Avenue and near the current waste water treatment plant building. The above ground structure was oblong shaped with the long side on a north-south orientation. I believe the sides of the structure were made of wood and were several feet high. I have circled and initialed the approximate location of the above ground structure on the attached aerial map.

4. I recall seeing Schroeder workers manually lower the railroad ties into the above ground structure through the use of a pulley. When the Schroeder workers lifted the ties out of the structure, the ties were covered with creosote. I recall that I did not observe this process for long periods of time because I did not like the smell.

5. I have no recollection of any other wood dipping operations anywhere else on this part of the Schroeder property or east of Prentice Avenue. I also have no recollection of any tanker rail cars on the site during this period. I used to play along the railroad tracks as a child and I do not recall any pipes discharging from the bluff area to the lower area.

6. I have received no payment or benefit of any kind from any party for making this Affidavit.

Dated this 22~~nd~~ day of June, 1999.

Thomas E. Roy
Notary

Subscribed and sworn to before me
this 22~~nd~~ day of June, 1999.

James M. Gable
Notary Public, State of Wisconsin
My Commission: February 24, 2002



D

AFFIDAVIT
OF
FRANK KUCINSKI

STATE OF WISCONSIN)
) SS.
COUNTY OF ASHLAND)

I, FRANK KUCINSKI, the undersigned, do hereby depose and state as follows:

1. I reside at 213 15th Avenue East in Ashland, Wisconsin and I am a life-long resident of Ashland.
2. I was born in Ashland in October of 1918 and I am currently 79 years old.
3. As a child, I attended Holy Family school until I graduated to high school in 1932. Prior to 1932, I used to play often near the lakefront on the property that used to be occupied by the Schroeder Lumber Company.
4. Between the time I was about 12 to 14 years old, I recall seeing a creosote wood treating pond just west of the foot of Prentice Avenue, near the spring, in the area now known as Kreher Park. I have marked this area on the map attached to this Affidavit and have initialed this area. My mother told me not to play near this area because it was a stinky, dirty mess.
5. At that same time, I also recall seeing railroad ties that had been treated with creosote stacked near the railroad spur in this area west of Prentice Avenue. I have also marked this location on the map attached to this Affidavit and have initialed this as well. I recall seeing these treated railroad ties being loaded onto railroad cars.

6. I worked at the Pulp Hoist in the summers of 1938 and 1939. I recall that the Schroeder sawmill was not in operation at that time; however, there was still a boom of cedar logs in the mill pond and finished lumber stacked all over the property.

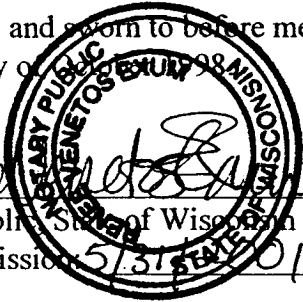
7. I make this Affidavit based on my best recollection and have received no payment or benefit of any kind from any party for making this Affidavit.

Dated this 9th day of October, 1998

Frank Kucinski
Frank Kucinski

Subscribed and sworn to before me
this 9th day of

Rebecca [Signature]
Notary Public, State of Wisconsin
My Commission Expires 5/31/2001





1
2 STATE OF WISCONSIN CIRCUIT COURT ASHLAND COUNTY
3 GEORGE F. GROSJEAN and
4 DIANE L. GROSJEAN, Case No. 02-CV-150
5 Plaintiffs, Deposition of:
6 vs. FRANK E. KUCINSKI
7 NORTHERN STATES POWER COMPANY,
8 a Wisconsin Corporation, d/b/a
9 XCEL ENERGY SERVICES, INC., and
10 AEGIS SECURITY INSURANCE COMPANY,
11 Defendants,
12 and
13 COMPCARE HEALTH SERVICES INSURANCE
14 CORPORATION, ATRIUM HEALTH PLAN, INC.
15 Nominal Defendants.
16
17 Deposition examination of FRANK E.
18 KUCINSKI, taken under and pursuant to Section 804 of
19 the Wisconsin Statutes and the acts amendatory thereof
20 and supplementary thereto, pursuant to notice, before
21 Kathleen M. Bay, Freelance Court Reporter and Notary
22 Public in and for the State of Wisconsin, at the
23 Ashland County Courthouse, Room 204, 201 West Main
24 Street, Ashland, Wisconsin, on the 8th day of October,
25 2003, commencing at 9:45 a.m. and concluding at
10:10 a.m.
26
27 APPEARING ON BEHALF OF THE PLAINTIFFS:
28 Mr. D.J. Weis
29 Attorney at Law
30 26 South Brown Street
31 Rhinelander, WI 54501
32
33 APPEARING ON BEHALF OF THE DEFENDANTS:
34 Mr. J. Drew Ryberg
35 Kelly & Ryberg, S.C.
36 1620 Ohm Avenue
37 P.O. Box 479
38 Eau Claire, WI 54702-0479
39
40 EBBA REPORTING GLIDDEN, WI 715-264-2113

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2	I N D E X P A G E	
3		PAGE
4		
5	EXAMINATION BY MR. RYBERG:	3,
6	EXAMINATION BY MR. WEIS:	14,
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11		
12	E X H I B I T S	
13		PAGE MARKED
14	Exhibit Number 1	5
15		
16	(The above original exhibit was included with the	
17	original transcript and copies thereof were included	
18	with each transcript copy.)	
19		
20		
21		
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23		
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1 P R O C E E D I N G S
2 FRANK E. KUCINSKI, after having been
3 first duly sworn, testified as follows:
4 EXAMINATION BY MR. RYBERG:
5 Q. Good morning, sir. Could you state your
6 full name?
7 A. Frank Kucinski. Frank Edward Kucinski.
8 Q. Where do you live?
9 A. 213 15th Avenue East.
10 Q. What is your date of birth?
11 A. October 10, 1918.
12 Q. So on Friday you'll be 85?
13 A. Yep.
14 Q. Have you lived in Ashland County most of
15 your life?
16 A. Yes, just about. Outside of when I was in
17 the service for three years.
18 Q. What job did you have as an adult?
19 A. What's that?
20 Q. What job did you have as an adult, Mr.
21 Kucinski? What was your work?
22 A. Well, I put in from 1940 to 1980 I worked
23 for Maritime Paper Mill, American Can, whatever you
24 want to call it. I retired there with 40 years of
25 service.

1 Q. What year was that, Mr. Kucinski?
2 A. What's that?
3 Q. What year was that?
4 A. I retired in 1980.
5 Q. Were you born and raised in this town?
6 A. Yes, I was.
7 Q. The area I want to talk about is an area
8 that's down by the Chequamegon Bay in this deposition.
9 Did you know that area as a young person?
10 A. Well, from the time we were kids we grew
11 up on the lake front.
12 Q. Would the lake front include the area by
13 the Schroeder Lumber Company?
14 A. Yes.
15 Q. Do you remember that place?
16 A. Yes.
17 Q. Does that sit basically where the old
18 waste water treatment plant is?
19 A. Yes, about where that spring is. That's
20 where it's contaminated up from the waste water
21 treatment plant. There used to be a creosote pond. I
22 guess they dipped the railroad ties in there because
23 the -- all the railroad ties; everything was creosote.
24 Q. The area of the creosote pond, where was
25 that in relation to the current waste water treatment?

1 A. Well, it would be south of that waste
2 water treatment in that corner.
3 Q. All right. In the area then below the
4 ravine and before you got to the waste water treatment
5 plant?
6 A. Yep.
7 Q. You say that the railroad ties would be
8 soaked in that creosote?
9 A. Well, because they used to be piled up by
10 the railroad tracks where they used to load them in
11 the flat cars.
12 Q. I have shown you a copy of an affidavit
13 that you gave some years ago, is that familiar to you,
14 Mr. Kucinski?
15 A. Yes, that's about it.
16 Q. And that's accurate is it?
17 A. Yes.
18 Q. I wonder if we could mark that as an
19 exhibit. You keep yours let me take one I have.
20 (Exhibit Number 1 marked for
21 identification.)
22 BY MR. RYBERG:
23 Q. Exhibit 1 is a copy of your affidavit, is
24 that correct, sir? (pause) Mr. Kucinski? (pause)
25 Sir? Exhibit 1 is a copy of your affidavit?

5

1 question. You described a creosote pond that was a
2 little bit to the south of the Schroeder Lumber
3 Company that you described?
4 A. Yes, it was just south of that. Where the
5 sewer disposal plant was.
6 Q. Can we see the sewage disposal plant on
7 this map that you have? Is that at the point there?
8 (pause) Mr. Kucinski, perhaps I can help a bit. I
9 think this is the waste water treatment plant there
10 (indicating), this area that I am pointing to. Do you
11 follow me?
12 A. Yes.
13 Q. And an area to the south of that, would
14 that be an area that you say there was a creosote
15 pond?
16 A. Yeah, there used to be a horse ramp going
17 in here and that's the railroad track here
18 (indicating).
19 Q. You're looking at the map and pointing out
20 the railroad track?
21 A. Huh?
22 Q. You're pointing out the railroad track?
23 A. Yeah.
24 Q. And the horse ramp ran in the area of what
25 we now see as a waste water treatment plant up to that

7

1 A. Yeah.
2 Q. And attached to that is --
3 A. Yeah.
4 Q. All right. Attached to that is a diagram
5 that depicts the area, is that right?
6 A. Yeah, as far as I can remember, yeah.
7 Q. All right. And the Schroeder Lumber Camp
8 -- I'm sorry. The Schroeder Lumber Company, is that
9 located in the area we can see on the point which is
10 now represented by the waste water treatment plant?
11 A. The Schroeder Lumber Company here
12 (indicating), all the way to the Soo Line or dock.
13 Q. So our record is clear, we're looking at
14 the map that's attached to your affidavit, correct?
15 A. Yeah.
16 Q. And you're telling me that the Schroeder
17 Lumber Company begins at kind of what appears to be
18 the point here in our diagram consisting of the old
19 waste water treatment plant and then over to the west?
20 A. Yeah.
21 Q. To the Soo ore dock?
22 A. Yes.
23 Q. The area of the creosote pond, can you
24 tell us where that was? (pause) Are you with me so
25 far, Mr. Kucinski? (pause) Let me ask another

6

1 area between the track and the plant?
2 A. Okay. There was a railroad track in here
3 too (indicating).
4 Q. When you describe that, you're indicating
5 to kind of the west side of the waste water plant,
6 correct, a railroad track ran along that area?
7 A. Yeah.
8 Q. All right. What was the pond -- it
9 consisted of creosote, is that it?
10 A. Well, as far as we knew it was creosote
11 because there was a big black pond.
12 Q. Were there any borders on it, like wood or
13 anything to keep that in one spot?
14 A. That I can't tell you.
15 Q. Did you see the railroad ties being dipped
16 into the creosote?
17 A. No, but I seen them where they were piled
18 along the railroad track.
19 Q. Would you see the finished product after
20 they had been treated?
21 A. Yeah. They would have been the finished
22 product ready to ship out.
23 Q. In the summer time then would that pond be
24 a liquid?
25 A. Yep.

8

1 Q. In the winter time what would happen to
2 that pond?
3 A. Well, winter time we never went around
4 there.
5 Q. Did you go to school someplace in this
6 area? I'm looking at the affidavit that speaks to
7 that a little bit.
8 A. Yeah, I went to Holy Family School till I
9 graduated out of there in 1932.
10 Q. And Holy Family would be an area to the
11 south of the Schroeder Lumber Company, is that right?
12 A. Yeah. It was on Willis Avenue and
13 Seventh.
14 Q. Would you walk to and from school?
15 A. Oh, yeah.
16 Q. And in doing that would you go by the area
17 of the Schroeder Lumber Company?
18 A. Well, we used to go down there during noon
19 hour. We had an hour off. We would go bumming down
20 there. We couldn't go home for dinner because at that
21 time I lived at 2116 Front Street East down by the
22 American Paper Company. In that block.
23 Q. That was too far to go home for lunch?
24 A. Nobody walked that far. You would have
25 your bread and butter sandwich and that was depression

9

1 by Schroeder when they left?
2 A. Yeah. That was left by Schroeder, yeah,
3 and they never claimed -- because everybody just
4 helped themselves to the cedar logs and nobody said
5 nothing.
6 Q. Do you have a recollection in that summer
7 of 1938 if the creosote pond was still there?
8 A. That I don't know. I never -- because we
9 used to, when we were kids, 10, 12, 13 years old, we
10 used to ride our bikes down by Schroeder's mill; go
11 down below the planing mill and there was lumber
12 decked up and there was little inlets in there,
13 weedbeds, northernns. We used to ride down with our
14 bikes and do a little fishing.
15 Q. The areas where you would see these
16 stacked railroad ties, would that be then put onto the
17 rail cars do you recall?
18 A. Yeah, I imagine they load them on the flat
19 cars then and ship them out to wherever they were
20 building railroads. All the ties were creosoted.
21 Q. Were they creosoted from that pond?
22 A. Well, yeah.
23 Q. Do you know where the creosote came from?
24 A. That I don't know because I know we had
25 creosote -- my dad worked for the Northwestern Ore

11

1 days.
2 Q. Can you tell me how large that pond was of
3 the creosote?
4 A. That all I know, it was a black pond.
5 Q. Was it present for some years?
6 A. What's that?
7 Q. Was it there for some years?
8 A. Well, as long as Schroeder Lumber Company
9 was running, their cutting ties, and until 1932.
10 After that I was out of the area.
11 Q. All right. Do you know when Schroeder
12 stopped operating?
13 A. Oh, I don't remember what year, but I know
14 in 1938 they had a boom of logs on their property over
15 by the Soo line or dock there and that boom of cedar
16 logs broke loose. The reason I say that was at that
17 time everybody was looking for cedar posts for fence
18 posts for their farm and their gardens and that and in
19 1938 I happened to be home that year. I sailed in
20 1936 and 1937, 1938, but that one year I couldn't hold
21 a job so I ended up picking up them cedar logs down by
22 the little breakwater where Ochsenbauer lives now and
23 carrying them up the hill and my dad had a farm out in
24 the country; we were fencing in the property.
25 Q. So this boom was something that was left

10

1 Docks there in the winter time; everything was
2 creosoted. Any timber that went into the water at
3 water level, that was all creosoted.
4 Q. In this area that you're describing in the
5 map that we see attached to your Exhibit 1, Mr.
6 Kucinski, was there ever an area that was used as a
7 dump by the City of Ashland? Materials that would be
8 placed there for disposition?
9 A. Not at that time, no.
10 Q. Do you know if that happened after 1938?
11 A. What's that?
12 Q. Was that used as a dump, this area
13 generally, after 1938?
14 A. Well, after '38 then later on in -- oh, I
15 don't know, maybe in the 50's, then the City started
16 filling in where the trailer park is now, where the RV
17 park or whatever you want to call it.
18 Q. What did they fill with, do you know?
19 A. Yeah, the boat club dredged out their boat
20 landing on 29th Avenue East and they had a pile of
21 dirt and the problem was of disposing it. They
22 couldn't dump it in the back of Bohemian Hall or
23 nothing because that was a ravine; that was a no, no
24 with the DNR. So the City come down and took all that
25 stuff that they dredged out and filled in at Kreher

12

1 Park there. That used to be nothing but a swamp.
 2 Q. When you describe Kreher Park for us, Mr.
 3 Kucinski, is that to the east of what we can see as
 4 the Schroeder plant on our map?
 5 A. Yeah, out in that, (indicating). Yeah,
 6 that's where they got all that sand when they filled
 7 in there. Then they made an RV park out of it.
 8 Q. That's what it currently is, an RV area?
 9 A. Yeah.
 10 Q. So the fill for that came from this?
 11 A. From the dredging at the boat landing.
 12 Q. The material that was in the dredge that
 13 was picked up there, do you know what that consisted
 14 of other than sand?
 15 A. Well, that was mostly all sand, yeah.
 16 Sand and clay; whatever's on the bottom.
 17 Q. In the period of time that you were in
 18 grade school, which would get us up to about 19 --
 19 graduated high school in '32?
 20 A. I graduated grade school in '32.
 21 Q. All right. You were 14 then?
 22 A. Yep. I was 13. I was going to be 14 in
 23 October.
 24 Q. So in the years that you were in grade
 25 school at the Holy Family then, you would have

13

1 occasion to see this creosote pond whenever you would
 2 want to go down there and look, is that right?
 3 A. What's that?
 4 Q. When you were in grade school and if you
 5 went down into this area you would see the area of the
 6 creosote pond?
 7 A. Oh, yeah.
 8 MR. RYBERG: I want to thank you for
 9 coming, sir. I don't have any other questions. Mr.
 10 Weis may have some questions for you.
 11
 12 EXAMINATION BY MR. WEIS:
 13 Q. I do have a few questions if I could. If
 14 I understand it, you saw a pond down in that area and
 15 it was dark?
 16 A. Yeah, where that spring is now, where the
 17 little golf course, miniature golf course was, in that
 18 corner.
 19 Q. And you knew that the lumber company was
 20 treating lumber because everybody was treating lumber
 21 back then that would be used outside?
 22 A. They were treating railroad ties. That's
 23 all I knew was just the railroad ties because they
 24 were decked up along the railroad spur where they were
 25 loading them on flat cars.

14

1 Q. But you never saw anybody dip railroad
 2 ties into that pond?
 3 A. They must have come out of there because
 4 they were parked right on top of the hill there.
 5 Q. You assumed they were because they were
 6 near the area of the pond?
 7 A. Yeah.
 8 Q. And you don't know for sure that the pond
 9 was creosote? You know that it was dark, but you --
 10 A. Well, creosote at that time was a common
 11 liquid. Northwestern Ore Dock; everybody used it.
 12 Even the farmers, if they could get ahold of creosote.
 13 Their fence posts on the bottom was creosote.
 14 Q. Everybody did their outhouses with
 15 creosote?
 16 A. Like by the Northwestern Tool Shop there
 17 was 50 gallon barrels. If you wanted a gallon of
 18 creosote, you took a gallon bucket and dipped it out
 19 there.
 20 Q. I guess what I am asking though is, you
 21 don't know for sure that the dark pond you saw was a
 22 creosote pond as opposed to something else?
 23 A. All I know was my dad and mother said stay
 24 out of that stinky mess over there because it was --
 25 they knew it was creosote because they had it on the

15

1 ore docks all the time.
 2 Q. And that's what your folks had indicated
 3 to you, but personally yourself, you had never asked
 4 anybody other than your parents about it?
 5 A. When we were kids, who questioned anybody.
 6 Q. Okay. Did you ever see an above ground
 7 pond, or was this pond in the ground?
 8 A. It was in the ground.
 9 Q. Okay. Did it have wood around it or
 10 anything?
 11 A. Not that I remember.
 12 Q. Okay.
 13 A. We didn't get that close to it because
 14 they had that -- Schroeder Lumber, they had that ramp
 15 down there. The main attraction was, at that time we
 16 used to like to watch them horses pull them buggies
 17 and then up on the -- it would be Water Street, they
 18 had a big horse barn up there where they had the
 19 horses and those are the kids -- there was very few
 20 automobiles running at that time; a nice team of
 21 horses was exceptional.
 22 MR. WEIS: Good. Thank you, sir.
 23 That's all I have.
 24 RE-EXAMINATION BY MR. RYBERG:
 25 Q. Do you know creosote when you see it?

16

1 A. Oh, yeah.

2 Q. In regard to the horse buggy, was that

3 hauling lumber up to the area of Schroeder?

4 A. Well, them horse buggies they used to take

5 out of the sawmill. They would load up them buggies;

6 haul it over to the planing mill and they were back

7 and forth all the time, you know.

8 Q. The Water Street area, is that what's now

9 called Lake Shore Drive?

10 A. No, that was below Lake Shore Drive.

11 Q. To the north of that?

12 A. Yes.

13 Q. Is there any doubt, Mr. Kucinski, that

14 this was a creosote pond in this area?

15 A. All I can say is it's been pumped into us

16 when we were kids, creosote was creosote.

17 MR. RYBERG: Thank you, sir. Nice to

18 meet you.

19 MR. WEIS: Nice to meet you, sir.

20 THE WITNESS: Put it this way, them

21 were the good old days.

22 (Deposition concluded at 10:10 a.m.)

23

24

25

17

1

2 CERTIFICATION PAGE

3 STATE OF WISCONSIN)

4 ASHLAND COUNTY) ss:

5 I, KATHLEEN M. BAY, a Professional

6 Freelance Reporter, a Notary Public in and for the

7 State of Wisconsin, do hereby certify that the

8 foregoing examination of the person stated was taken

9 before me on the date stated; and

10 That the same was taken upon oral

11 interrogatories reported by diskwriter by me,

12 Freelance Reporter, Route 1, Box 186B, Glidden,

13 Wisconsin 54527 at the time and place stated, and by

14 me reduced to writing, and that the foregoing is a

15 true and correct transcript of said notes to the best

16 of my ability, and of the whole thereof; and

17 That before the examination of said

18 deponent this person was first duly sworn by me to

19 testify the truth, the whole truth and nothing but the

20 truth relative to said cause; and

21 That I am not related in any way to any

22 party, their attorneys or an employee of any of them,

23 and that I am not financially interested in this

24 action.

25

KATHLEEN M. BAY
Professional Reporter
Notary Public
State of Wisconsin
My Commission expires 03-12-06.

Dated this day of October, 2003,
Glidden, Wisconsin.

18

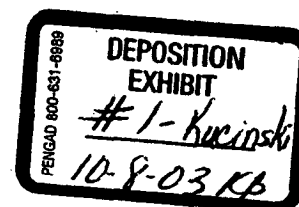
AFFIDAVIT
OF
FRANK KUCINSKI

STATE OF WISCONSIN)
) SS.
COUNTY OF ASHLAND)

I, FRANK KUCINSKI, the undersigned, do hereby depose and state as follows:

1. I reside at 213 15th Avenue East in Ashland, Wisconsin and I am a life-long resident of Ashland.
2. I was born in Ashland in October of 1918 and I am currently 79 years old.
3. As a child, I attended Holy Family school until I graduated to high school in 1932. Prior to 1932, I used to play often near the lakefront on the property that used to be occupied by the Schroeder Lumber Company.
4. Between the time I was about 12 to 14 years old, I recall seeing a creosote wood treating pond just west of the foot of Prentice Avenue, near the spring, in the area now known as Kreher Park. I have marked this area on the map attached to this Affidavit and have initialed this area. My mother told me not to play near this area because it was a stinky, dirty mess.
5. At that same time, I also recall seeing railroad ties that had been treated with creosote stacked near the railroad spur in this area west of Prentice Avenue. I have also marked this location on the map attached to this Affidavit and have initialed this as well. I recall seeing these treated railroad ties being loaded onto railroad cars.

NSPW100003



6. I worked at the Pulp Hoist in the summers of 1938 and 1939. I recall that the Schroeder sawmill was not in operation at that time; however, there was still a boom of cedar logs in the mill pond and finished lumber stacked all over the property.

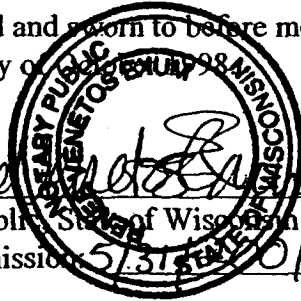
7. I make this Affidavit based on my best recollection and have received no payment or benefit of any kind from any party for making this Affidavit.

Dated this 9th day of October, 1998

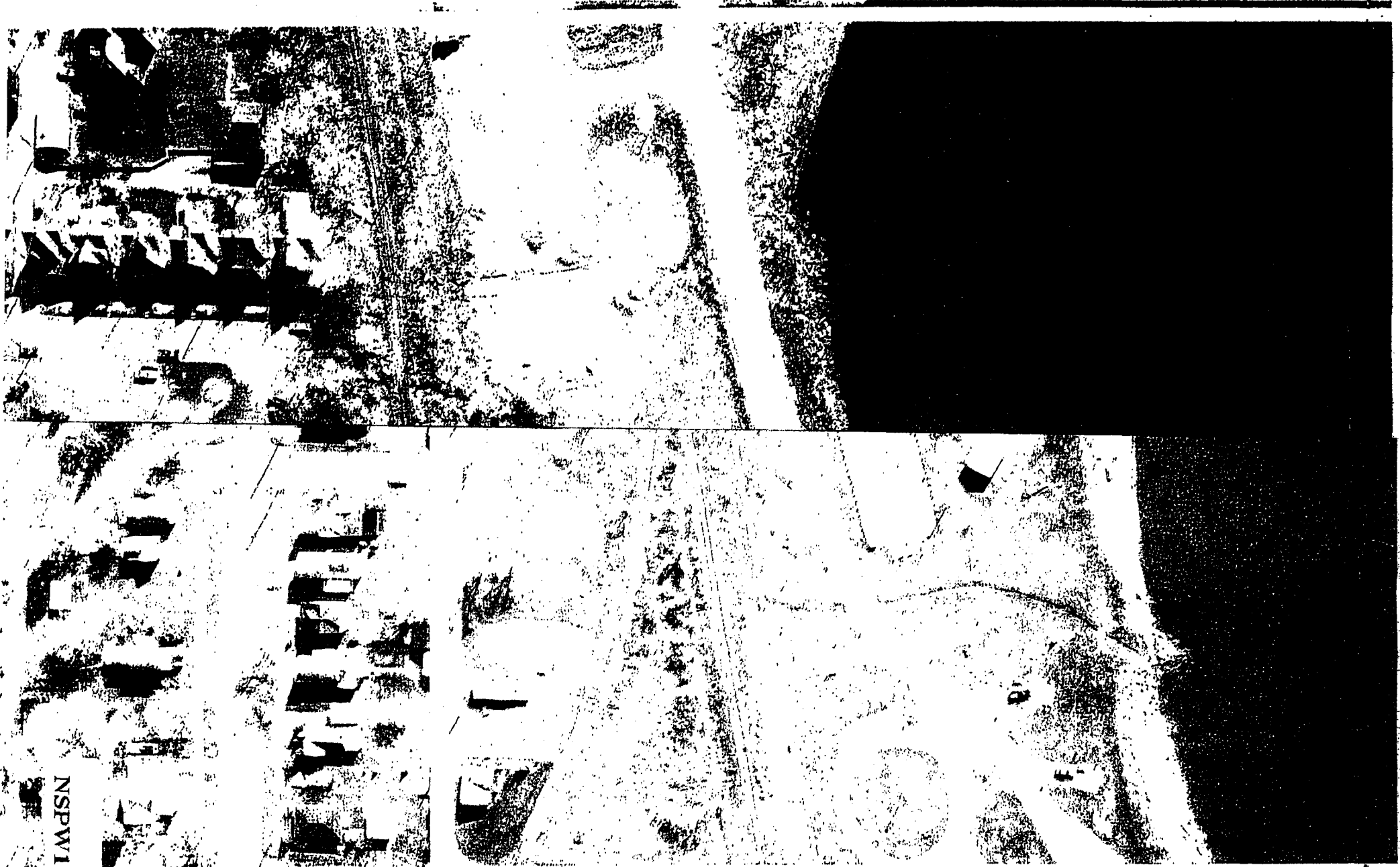
Frank Kucinski
Frank Kucinski

Subscribed and sworn to before me
this 9th day of October, 1998

Renée [Signature]
Notary Public, State of Wisconsin
My Commission Expires 5/31/2001



NSPW100004



NSPW100005

STATE OF WISCONSIN

CIRCUIT COURT

ASHLAND COUNTY

NORTHERN STATES POWER CO., d/b/a
Xcel Energy, Inc.

Case No. 01-CV-76

DEPOSITION OF FRANK KUCINSKI

Having been taken on the 16th day of October, 2001, at
Northern States Power, 301 East Lake Shore Drive,
Ashland, Wisconsin, 54806, at or about 1:55 p.m.

APPEARANCES:

FOR XCEL ENERGY, NORTHERN STATES POWER:

MR. JON G. FURLOW
Michael Best & Friedrich, LLP
One South Pinckney Street
P.O. Box 1806
Madison, Wisconsin 53701-1806

FOR XCEL ENERGY, NORTHERN STATES POWER:

MR. DAVID A. CRASS
Michael Best & Friedrich, LLP
One South Pinckney Street
P.O. Box 1806
Madison, Wisconsin 53701-1806

FOR WISCONSIN DEPARTMENT OF JUSTICE:

MS. SHARI EGGLESON
Corporate Counsel
P.O. Box 7857
Madison, WI 53707

FOR WISCONSIN CENTRAL, a division of Canadian National:

MS. JANET H. GILBERT
One O'Hare Centre
6250 N. River Road, Suite 9000
Rosemont, IL 60018

FOR THE DEPARTMENT OF NATURAL RESOURCES:

MR. JAMES DUNN
Spooner, WI 54801

COPY

FOR XCEL ENERGY, NORTHERN STATES POWER:

MR. MICHAEL S. BEBEAU
Community Relations Manager
301 East Lake Shore Drive
Ashland, WI 54806

REPORTED BY: SUSAN K. EDWARDS
N-11561 Skyway Road
Ironwood, MI 49938
(906) 932-3221

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FRANK KUCINSKI

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EXHIBITS: MARKED ID'D

Kucinski Exhibit No. 1 4 8
(Affidavit of Frank Kucinski, 10/9/98)

1 Ashland, Wisconsin.
2 Tuesday, October 16, 2001 - 1:55 p.m.
3 (Kucinski Exhibit No. 1 was marked for
4 identification by the Reporter.)
5 COURT REPORTER: Raise your right hand,
6 please. Do you solemnly swear that the
7 testimony you shall give in this matter shall be
8 the truth, the whole truth, and nothing but the
9 truth?
10 MR. KUCINSKI: I do.
11 FRANK KUCINSKI
12 HAVING BEEN FIRST DULY SWORN, TESTIFIED:
13 EXAMINATION
14 BY MR. FURLOW:
15 Q Mr. Kucinski -- is it Kucinski?
16 A Yes.
17 Q Okay. My name is Jon Furlow. I am one of the
18 lawyers for NSP and Dave Crass is one of the
19 lawyers for NSP, too. I am going to ask you
20 some questions today about Schroeder Lumber and
21 what went on there. What I am looking for is
22 your best memory, and these folks might have
23 some questions, too.
24 When I ask a question, you have to
25 answer audibly. Nods of the head and things

1 like that don't show up, okay?

2 A Okay.

3 Q If you don't understand a question, could you

4 let me know and I'll clear it up for you?

5 A Sure.

6 Q And if you don't hear me, my voice tends to

7 drop, let me know, okay?

8 A Okay. I'll let you know. We'll go as far as we

9 can.

10 Q Okay. Mr. Kucinski, why don't you tell us your

11 name, please.

12 A What's that?

13 Q Your name?

14 A Frank Kucinski, K-U-C-I-N-S-K-I.

15 Q Where do you live?

16 A 213, 15th Avenue East.

17 Q In Ashland?

18 A In Ashland, yes.

19 Q How old are you now?

20 A 83.

21 Q When where you born?

22 A 1918. October 10, 1918.

23 Q How long have you lived in Ashland?

24 A All of my life.

25 Q Have you ever lived anywhere else?

1 A Well, on and off a little bit. I sailed on the
2 lakes for four years and gone during the summer,
3 but come back every winter.

4 Q I want to focus on the time between 1918 and say
5 1935. Were you in Ashland all during that time?

6 A Yeah.

7 Q Do you know what the Schroeder Lumber Company
8 is?

9 A What's that?

10 Q Do you know what the Schroeder Lumber Company
11 is?

12 A Well, I knew what it was at that time.

13 Q And how did you know what it was at that time --
14 and this is the time between 1918 and 1935?

15 A When we were kids, we went to grade school down
16 there, Holy Family School.

17 Q Okay.

18 A Yeah, and we used to take a little stroll down
19 there all of the time.

20 Q To Schroeder Lumber?

21 A To Schroeder Lumber. We used to watch the
22 horses pulling the wagons up and then
23 Schroeder's Lumber they had a big -- oh, down in
24 here, they had a big horse barn and we used to
25 admire those horses. But on the way to school,

1 we would go and walk the railroad tracks as far
2 as Schroeder Lumber and then we would come up
3 the avenue to the school.

4 Q I am going to show you, Mr. Kucinski, an
5 affidavit that you had signed and ask you to
6 take a look at that. Do you have your glasses?

7 A Yes.

8 Q Look at that. We have had two witnesses without
9 glasses. It has been an interesting morning.
10 Just take a look at that briefly, and once you
11 have had a chance to look at it, let me know and
12 I'll ask you some questions about it.

13 A (Witness reviews exhibit.) This log boom here
14 is a raft of cedar logs in there.

15 Q Okay.

16 A I think it was in 1938 when that boom broke
17 loose.

18 Q And the logs went to the bay?

19 A They drifted out in the bay and they went east.
20 And on the other side of where Bretting is now,
21 that shoreline was filled with logs.

22 Q Let me go back -- go ahead.

23 A And my dad made us go down at that time and
24 split up the big ones, carrying them up that
25 steep bank, take them out to the farm, and put

1 new fence posts in.

2 Q You got a chance to look at your affidavit?

3 A Yes.

4 Q Is that an affidavit that you signed?

5 A (No audible response.)

6 Q I should say: Is that your signature on Page 2?

7 A Yeah, that's it.

8 Q And is this information, after reading it,

9 accurate in your affidavit?

10 A Yeah, the only thing is even before twelve years

11 old.

12 Q Even before twelve years old what?

13 A When I was twelve years old, yeah.

14 Q So you saw the creosote wood treating pond even

15 before you were twelve?

16 A Even a few years before that, maybe when I was

17 about ten even.

18 Q Okay.

19 A We used to stroll down there. J

20 Q I am going to use this diagram to help us out a

21 little bit. Just to orient you, we have

22 Prentice Avenue here, Third Avenue, Second

23 Avenue, Fifth Avenue, and so forth.

24 A Yeah, we used to go all of the way up here and

25 then come up and go back to school.

1 Q Okay. I am going to give you my pen. Could you
2 show me on the map, Mr. Kucinski, where your
3 school would have been on this map?
4 A Where the what?
5 Q Where your school would have been.
6 A What is this; Prentice Avenue?
7 Q Yes.
8 A The school was on Seventh Avenue East, that
9 would have been over this way.
10 Q Okay. There is Fifth Avenue, there is Sixth
11 Avenue.
12 A About in here. (Indicating)
13 Q Okay. Why don't you put an "S" where the school
14 is.
15 A (Witness complies.)
16 Q Very good.
17 A That's where the open lot is now, where the
18 church was tore down.
19 Q Okay. I am going to put an "S" where the school
20 was. Do I have that right?
21 A Yeah, the school was here and the church was
22 right next to it.
23 Q And you said you used to go down to the
24 Schroeder Lumber area?
25 A Yeah, we used to go down there all the time. As

1 a matter of fact, we used to even take, once in
2 a while take the bicycle, rod and wheel and cast
3 off of these docks here.

4 Q Okay. Give me the time period that you used to
5 go down to Schroeder Lumber. How old were you;
6 what ages?

7 A Well, any time from eight years old to twelve,
8 thirteen years old, when I got out of school.

9 Q And at the time you went to Schroeder Lumber,
10 was the lumber yard in operation?

11 A What's that?

12 Q Was the lumber yard in operation?

13 A I remember when it was in operation at the
14 start, but later on I don't. We could go down
15 there and fish off them docks and nobody
16 bothered you.

17 Q Okay. I want to focus on the time when the
18 lumberyard was operating, okay?

19 A Okay. J

20 Q Did you ever see a tank or a structure with
21 creosote in it?

22 A There was a little pond over here where they
23 used to dip them logs and then they stacked them
24 along this railroad track and roll them on the
25 flat cars.

1 Q I am going to give you my pen again and could
2 you just draw a circle where the pond was where
3 the creosote was?
4 A Well, it was right about in this area here.
5 (Indicating)
6 Q And you are pointing now to the circle and the
7 "K" on your diagram?
8 A Yeah.
9 Q How old were you when you saw that?
10 A Oh, that was, I would say ten years old, maybe
11 twelve even.
12 Q Okay. And did you see anyone dipping things
13 into the pond?
14 A What's that?
15 Q Did you see people dipping wood into the pond?
16 A I never seen them dipping, but we seen the logs
17 or the ties stacked up there.
18 Q What kind of ties?
19 A Railroad ties.
20 Q What did they look like when they were stacked?
21 A Well, they were, um, well --
22 Q Ten by ten, eight by eight?
23 A Ten by ten, eight by ten.
24 Q What color were they?
25 A Black.

1 Q Okay. And where were they stacked up?
2 A They would stack them up along this railroad
3 track.
4 Q Okay. I am going to put an "X" and a --
5 A Yeah, in that area.
6 Q -- and a circle. Is that where the railroad
7 ties were stacked up?
8 A As far as I remember, that's where we used to
9 see them stacked up there.
10 Q And did you see what happened to the railroad
11 ties once they were stacked up?
12 A Well, they were shipped out, I imagine, some
13 place, you know.
14 Q Did you ever see them being loaded onto a train?
15 A I never seen them load them on, but I didn't
16 know all of the guys that were working on the
17 section crew, they were putting ties in all of
18 the time. So where they come from, it must have
19 been from down around there.
20 Q And you say "guys working on the section --
21 A Section crew.
22 Q -- section crew." Was that on this railroad
23 line depicted on this --
24 A No, no. It would be off of the, from the
25 Northwestern Railroad yards on 21st Avenue East.

1 Q Okay. Now how close were the railroad ties
2 stacked to that creosote pond?
3 A That I wouldn't say. It couldn't have been very
4 far because you didn't have much space in there.
5 Q Did you ever see the creosote pond in a
6 structure?
7 A (No audible response.)
8 Q Was there a wood structure to it?
9 A That I couldn't tell you. All I know is that we
10 were told to stay the hell away from it.
11 Q Who told you that? Who told you that?
12 A Well, my mother and my dad.
13 Q Did they tell you why they wanted you to stay
14 away from it?
15 A Don't ever come back with any of that stuff on
16 your clothes.
17 Q The creosote?
18 A Yeah.
19 Q How old were you when they told you that?
20 A Well, from the time we were going to school.
21 When we started heading down towards the lake.
22 Q Ten, eleven, twelve, thirteen?
23 A Eight, nine, ten.
24 Q Did it continue on until you were ten, eleven,
25 twelve, thirteen?

1 A Yeah, because we used to walk down -- oh, take
2 the railroad grade from the east end down there.
3 Because at that time, where the highway is now
4 through the fill there, there was a big wooden
5 bridge there.

6 Q Did you ever, Mr. Kucinski, see a railroad car
7 along those railroad lines?

8 A That I couldn't tell you.

9 Q Okay. How sure are you, Mr. Kucinski, that you
10 saw the pile of railroad ties that were black
11 that were stacked by the railroad track?

12 A What is that?

13 Q How sure were you that you saw the --

14 A As sure as I can remember, I can still picture
15 them there.

16 Q Did the size of the railroad tie stack change
17 from time to time?

18 A (No audible response.)

19 Q Do you know what I am saying? Was it just one
20 stack that was always there or did it change?

21 A They stack them in pretty big stacks.

22 Q Did the stacks ever get small?

23 A Well, maybe -- oh, up to maybe six feet high
24 because at that time they had to be loaded on
25 the flat cars with a strong arm.

1 Q Did you ever see flat cars on the railroad
2 tracks?
3 A That I don't remember at all.
4 Q Did you ever see anyone actually dipping the
5 ties into the pond?
6 A We weren't around there when they were working.
7 It was usually after school or something, you
8 know, and when they dipped, I don't know that.
9 Q Do you know what was on the railroad ties?
10 A What's that?
11 Q Do you know what was on the railroad ties?
12 A (No audible response.)
13 Q Why were they black?
14 A Well, that was when they soaked them in creosote
15 so when they put them on the railroad, they
16 wouldn't rot right away.
17 Q And how do you know it was creosote that was on
18 the railroad ties?
19 A Everything was creosote.
20 Q Was there any other source of creosote in the
21 Schroeder Lumber Yard except for that pond?
22 A That's the only one I remember, that one right
23 there, because we couldn't get back in here.
24 (Indicating)
25 Q Back toward the mill?

1 A I mean, they had that ramp running up here and
2 that was kind of out of bounds, you know, you
3 couldn't follow along it until you got past the
4 ramps where the horses come off.

5 Q I think that's all that I have, Mr. Kucinski.
6 Thank you very much. It was pretty easy.

7 A That's all right.

8 Q Ms. Eggleston may have some questions for you.

9 EXAMINATION

10 BY MS. EGGLESTON:

11 Q Mr. Kucinski, I have just a couple of questions.

12 A Yeah, what's that?

13 Q Do you know where the creosote in the pond came
14 from?

15 A That I wouldn't have the slightest idea.

16 Q Okay. Did you ever notice any run-off coming
17 out of the ravine that went up the hill to the
18 gas plant?

19 A No, that never -- we never got into that area.

20 Q Oh, okay.

21 A We were allowed to come along the railroad track
22 here and then back to school. (Indicating)

23 Q Okay.

24 A See at that time, Ashland was divided into
25 zones. From the Soo Line Oredock east, there

1 was a little group of Bohemian people, and then
2 you had a big group of Polish people, and then
3 when you went way east where Bretting has got
4 his warehouse and that, then you hit a few Sweds
5 and Norwegians.

6 MR. FURLOW: I am guessing you were
7 the Swed or Norwegian.

8 THE WITNESS: No, no, no.

9 MR. FURLOW: Just kidding.

10 THE WITNESS: And from the Soo Line
11 Oredock west, that was kind of a boundary line.
12 If you got in with the kids up there back of
13 Ellis School and that, you were in for a fight.

14 BY MS. EGGLESON:

15 Q So you didn't go up by the gas plant at all
16 then?

17 A No.

18 Q Okay. I don't think that I have any more
19 questions then. Thank you.

20 MR. FURLOW: That's all that we have.

21 THE WITNESS: Ashland at that time was,
22 it was segregated into groups. Because when the
23 old timers come from the old country, they would
24 always get their relatives or somebody that
25 would follow in, you know.

1 And when they come over here those old
2 timers, they didn't have a dime in their pockets,
3 they made it.

4 MR. FURLOW: Janet, do you have any
5 questions?

6 MS. GILBERT: No.

7 MR. FURLOW: Thank you very much. I
8 appreciate your coming down a little early
9 today.

10 (Whereupon, the above proceedings
11 concluded at 2:15 p.m.)

12

13 * * * *

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1 STATE OF WISCONSIN)
2)
3 COUNTY OF ASHLAND)

4 I, Susan K. Edwards, a Notary Public in and for the
5 State of Michigan, do hereby certify that Frank Kucinski,
6 the witness named herein, personally appeared before myself
7 on the 16th day of October, 2001, commencing at 1:55 p.m.
8 at the XCEL ENERGY OFFICE, Ashland, Wisconsin 54806, and
9 was by me sworn to testify the truth and nothing but the
10 truth in the within titled cause.

11 That said deposition was reported by me as a court
12 reporter and disinterested person, and was thereafter
13 transcribed into typewritten form under my direction.

14 And I further certify that I am not of counsel or
15 attorney for either or any of the parties to said
16 deposition, nor in any way interested in the outcome of the
17 cause named in the caption.

18 I have hereunto set my hand and affixed my seal of
19 office this 22nd day of October, 2001.

20

21

22

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25

Susan K. Edwards

SUSAN K. EDWARDS - NOTARY PUBLIC
IN AND FOR THE STATE OF MICHIGAN

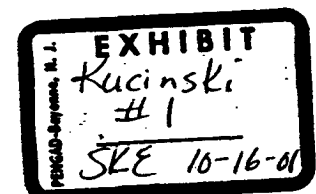
My commission expires: July 8, 2006

AFFIDAVIT
OF
FRANK KUCINSKI

STATE OF WISCONSIN)
) SS.
COUNTY OF ASHLAND)

I, FRANK KUCINSKI, the undersigned, do hereby depose and state as follows:

1. I reside at 213 15th Avenue East in Ashland, Wisconsin and I am a life-long resident of Ashland.
2. I was born in Ashland in October of 1918 and I am currently 79 years old.
3. As a child, I attended Holy Family school until I graduated to high school in 1932. Prior to 1932, I used to play often near the lakefront on the property that used to be occupied by the Schroeder Lumber Company.
4. Between the time I was about 12 to 14 years old, I recall seeing a creosote wood treating pond just west of the foot of Prentice Avenue, near the spring, in the area now known as Kreher Park. I have marked this area on the map attached to this Affidavit and have initialed this area. My mother told me not to play near this area because it was a stinky, dirty mess.
5. At that same time, I also recall seeing railroad ties that had been treated with creosote stacked near the railroad spur in this area west of Prentice Avenue. I have also marked this location on the map attached to this Affidavit and have initialed this as well. I recall seeing these treated railroad ties being loaded onto railroad cars.



6. I worked at the Pulp Hoist in the summers of 1938 and 1939. I recall that the Schroeder sawmill was not in operation at that time; however, there was still a boom of cedar logs in the mill pond and finished lumber stacked all over the property.

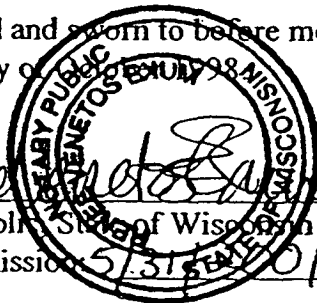
7. I make this Affidavit based on my best recollection and have received no payment or benefit of any kind from any party for making this Affidavit.

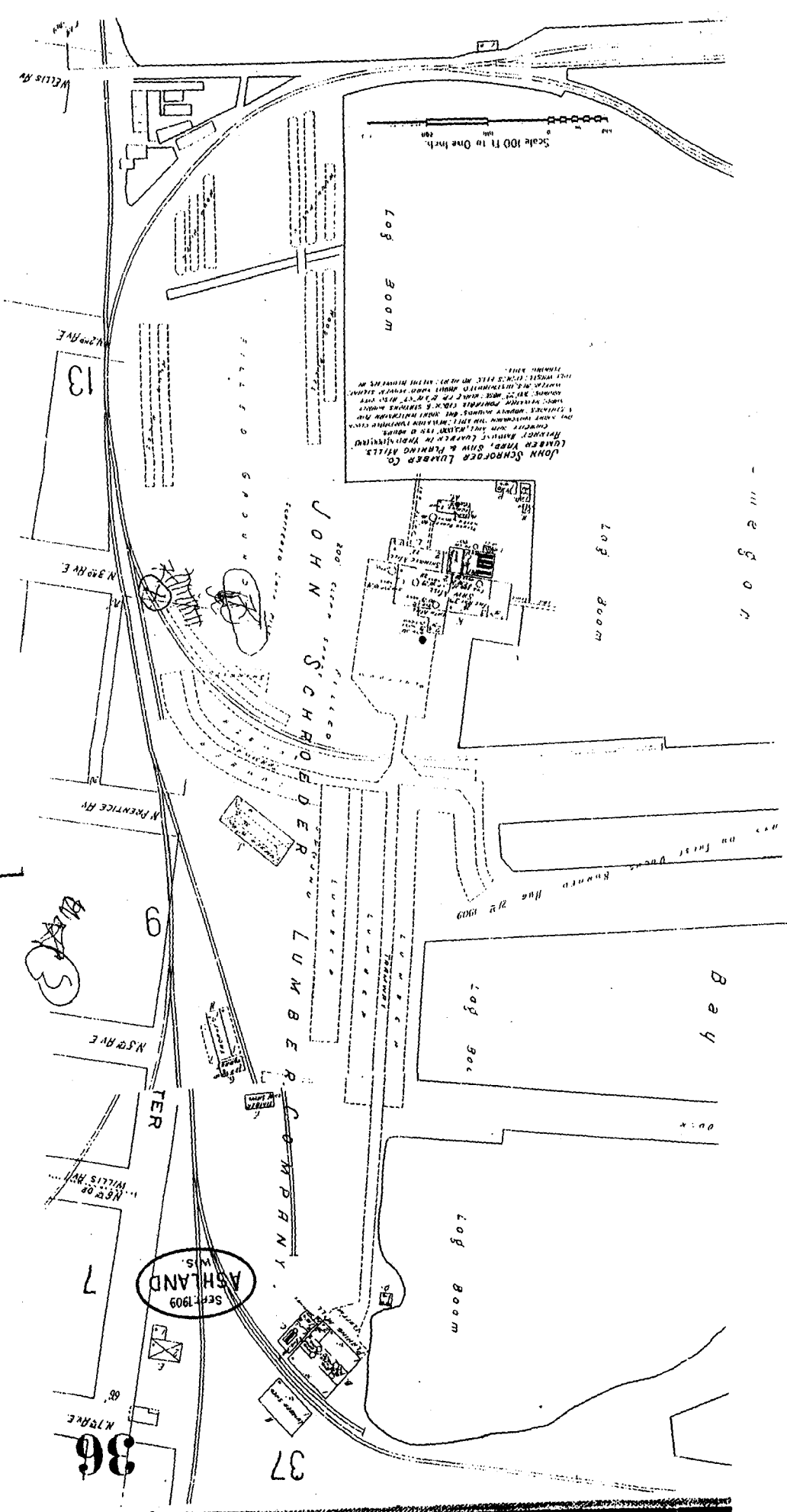
Dated this 9th day of October, 1998

Frank Kucinski
Frank Kucinski

Subscribed and sworn to before me
this 9th day of October, 1998

Rebecca A. [Signature]
Notary Public, State of Wisconsin
My Commission Expires 5/31/2001





E

STATE OF WISCONSIN

CIRCUIT COURT

ASHLAND COUNTY

NORTHERN STATES POWER CO., d/b/a
Xcel Energy, Inc.

Case No. 01-CV-76

DEPOSITION OF RAY PARENT

Having been taken on the 16th day of October, 2001, at
Northern States Power, 301 East Lake Shore Drive,
Ashland, Wisconsin, 54806, at or about 12:45 p.m.

APPEARANCES:

FOR XCEL ENERGY, NORTHERN STATES POWER:

MR. JON G. FURLOW
Michael Best & Friedrich, LLP
One South Pinckney Street
P.O. Box 1806
Madison, Wisconsin 53701-1806

FOR XCEL ENERGY, NORTHERN STATES POWER:

MR. DAVID A. CRASS
Michael Best & Friedrich, LLP
One South Pinckney Street
P.O. Box 1806
Madison, Wisconsin 53701-1806

FOR WISCONSIN DEPARTMENT OF JUSTICE:

MS. SHARI EGGLESON
Corporate Counsel
P.O. Box 7857
Madison, WI 53707

FOR WISCONSIN CENTRAL, a division of Canadian National:

MS. JANET H. GILBERT
One O'Hare Centre
6250 N. River Road, Suite 9000
Rosemont, IL 60018

FOR THE DEPARTMENT OF NATURAL RESOURCES:

MR. RANDAL FALSTAD
5301 Rib Mountain Drive
Wausau, WI 54401

COPY

FOR THE DEPARTMENT OF NATURAL RESOURCES:

MR. JAMES DUNN

Spoooner, WI 54801

FOR XCEL ENERGY, NORTHERN STATES POWER:

MR. MICHAEL S. BEBEAU

Community Relations Manager

301 East Lake Shore Drive

Ashland, WI 54806

REPORTED BY:

SUSAN K. EDWARDS

N-11561 Skyway Road

Ironwood, MI 49938

(906) 932-3221

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EXHIBITS:

MARKED

ID'D

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1 Ashland, Wisconsin.
2 Tuesday, October 16, 2001 - 12:45 p.m.
3 COURT REPORTER: Raise your right hand,
4 please. Do you solemnly swear that the
5 testimony you shall give in this matter shall be
6 the truth, the whole truth, and nothing but the
7 truth?

8 MR. PARENT: I do.

9 RAY PARENT

10 HAVING BEEN FIRST DULY SWORN, TESTIFIED:

11 EXAMINATION

12 BY MR. FURLOW:

13 Q Mr. Parent, my name is Jon Furlow; I am one of
14 the lawyers for NSP, and I am going to ask some
15 questions today about the Schroeder Lumber
16 Company and the area around -- well, that area,
17 the Pulp Hoist and things like that.

18 Have you had your deposition taken
19 before?

20 A No. We had someone come up to the house one
21 time and they took everything down. Some, I
22 suppose, they were lawyers and that stuff. They
23 took everything down and I figured that would be
24 the end of it.

25 Q Well, we're going to do this one under oath. I

1 am going to ask you a series of questions. You
2 have to answer audibly, you know, yes or no or
3 explain. Do you understand that?

4 A Uh-hum.

5 Q You have to say yes or no. You see it is a
6 trick -- the tricks have already started. You
7 have to answer yes or no, okay?

8 A Okay.

9 Q If you don't understand something that I ask,
10 just let me know and I'll try to make it
11 clearer.

12 A Okay.

13 Q Tell us your name for the record, please.

14 A Ray Parent.

15 Q How old are you, Mr. Parent?

16 A 74.

17 Q And what year where you born?

18 A 1927.

19 Q How long have you lived in Ashland?

20 A All of my life.

21 Q I want to talk a little bit about something
22 called the Pulp Hoist.

23 A Yes.

24 Q Do you know that company?

25 A Oh, yeah.

1 Q Did you work for them?

2 A Yeah, I worked for then when I was 16 years old.

3 Q Okay. About what year was that?

4 A Well, I don't know what year. It was back in

5 the '40's anyway.

6 Q Mr. Parent, I have two maps here. Before I mark

7 them, I want to ask you which one might be more

8 helpful to talk about, okay?

9 I am going to put them both before you

10 now. Take a moment and look at them both. The

11 reason that I am showing you these is to see if

12 one or the other of these maps is more helpful

13 to help orient you to the Schroeder Lumber

14 Company area.

15 A If I had brought my glasses.

16 Q That's what your brother said. We have some

17 reading glasses here that might help.

18 MS. EGGLESON: Would you like to borrow

19 some reading glasses?

20 THE WITNESS: No, that's okay.

21 (Witness reviews maps.) This one here is more

22 detailed; you can see it better.

23 MR. FURLOW: Okay. Thank you. I tell

24 you what, I am going to have the reporter mark

25 this one as Exhibit No. 1 for Ray Parent.

1 (R.Parent Exhibit No. 1 was marked for
2 identification by the Reporter.)
3 BY MR. FURLOW:
4 Q Mr. Parent, I am going to put this Exhibit No. 1
5 in front of you. From time to time I will ask
6 you to locate some things for me. I am going to
7 give you my pen and ask you to do that from time
8 to time, okay?
9 A Sure.
10 Q Let me ask some preliminaries, though. You
11 worked at the Pulp Hoist Company?
12 A Yes.
13 Q Can you put an "X" on this map, Exhibit No. 1,
14 where that Pulp Hoist Company was?
15 A I would say it was right in here. (Indicating)
16 Q And you have marked an "X" on Exhibit No. 1 as
17 to where the Pulp Hoist Company was?
18 A Yeah.
19 Q What did you do for them? J
20 A They used to get big logs in and we used to
21 float them in and have them go up on a ramp.
22 They took them up on a ramp on a conveyer and
23 that.
24 Q And how did you get to the Pulp Hoist Company
25 from work?

1 A Well, a lot of times we walked down the railroad
2 grade here. Down to what you call it -- it used
3 to be a road that went down by the Schroeder
4 Mill there, but that used to wash out a lot and
5 that stuff.

6 Q Was there a name for that road?

7 A What?

8 Q Was there a name for that road?

9 A I don't know what the road was. That was just
10 put in there to get over to the Pulp Hoist at
11 that time, and I don't remember if they had a
12 name on that road or not.

13 Q Did you ever drive down that road?

14 A Oh, yeah. When I got a car, after I worked for
15 the Pulp Hoist for a while. We used to be --
16 well, let me see. This is where the -- we used
17 to drive right along here, I believe it would
18 have been. (Indicating)

19 Q Okay. Why don't you make a line, Mr. Parent,
20 where you used to drive.

21 A It would have been through this way.
22 (Indicating)

23 Q Just for reference. One of the things that I
24 have to do is make sure that her transcript
25 understands what you say.

1 A Yeah.

2 Q So you just made a line that goes down the
3 middle of the page along the bay toward the Pulp
4 Hoist Company?

5 A This map is a little different than what I think
6 the set-up was at the time. I believe this is
7 what they have in there now is a sewage plant.
8 But what you are looking for is this siding that
9 came down -- oh, this would be it right here is
10 where it would be. (Indicating)

11 Q The siding is at the foot of the --

12 A It being on this one here. This one or this one
13 here. (Indicating)

14 Q And the siding is the railroad tracks that --

15 A Yeah.

16 Q -- come out of the bottom of Third Avenue?

17 A Yeah, I think it is Third Avenue, I think it is
18 there.

19 Q And I am going to go back for a moment to the
20 road that you used to drive to the Pulp Hoist
21 Company. Did you ever see creosote on that
22 road?

23 A Oh, yeah. It used to get on the wheels of the
24 car.

25 Q Okay. And how was it, if you know, that

1 creosote ended up on the road that you drove on
2 to the --
3 A Well, it used --
4 Q -- the Pulp Hoist?
5 A It used to be that big pond right in here. And
6 then when we had a lot of rain and that stuff
7 and the rain and creosote, that oil floated.
8 When that pond filled up, when we got water, it
9 came to the top, the water stays down below and
10 it ran to the lake. (Indicating)
11 Q Okay.
12 A It ran over the top of the ground.
13 Q Let me just hold that thought for a second and
14 go back to this pond. What kind of a pond are
15 you talking about?
16 A Just creosote, we always called it a creosote
17 pond. What it was, when we were kids, we played
18 down there.
19 Q Let me stop you there for a moment. Can you
20 mark on the map with a circle where the pond
21 would be?
22 A I would say it would be right about in, I don't
23 know, it would have been right about in here
24 like this. (Indicating)
25 Q Okay. You have marked now with a circle on

1 Exhibit No. 1 where the creosote pond was?

2 A Yes.

3 Q Was there a structure?

4 A No, no. It just ran down the low spot in there

5 and that was filled in by -- somebody built a

6 sewage plant down there. They covered over it

7 and that would be why you don't see it down

8 there now. Otherwise, it used to be --

9 otherwise that used to be, you know, always

10 right out in the open.

11 Q Okay.

12 A I don't know how wide it was, but I suppose it

13 was 25 feet or 30 feet wide and, I don't know,

14 80 feet long.

15 Q And how old were you when you saw that pond?

16 A Oh, I suppose 16 or 17 years old.

17 Q Did you ever see it before then?

18 A Never paid attention to it.

19 Q Okay.

20 A We used to play in here all of the time, and we

21 used to go around it, and we didn't monkey with

22 it. It burned the skin right off your hand, you

23 know.

24 Q And how old were you when you played around it?

25 A What?

1 Q How old were you when you played around it?

2 A When I played around it? Oh, I suppose 16 or 17

3 years old.

4 Q Ever earlier than that?

5 A Well, we played there -- well, when I went to

6 the Army I was 18. So I mean, I got, I got --

7 that's when we quit playing around it and it

8 kept on getting bigger and bigger.

9 And when we came back from the Service,

10 well, I worked for the Pulp Hoist again, and

11 that's when they had their road improved a

12 little bit then and that stuff used to come up

13 on the road and go into the lake.

14 Q Do you remember playing down at the Schroeder

15 Lumber Company area when you were six or seven

16 years old?

17 A Well, I don't know if it was six or seven. I

18 remember maybe when I was around eight -- eight

19 or nine, ten, around in there. We used to get

20 down -- we lived over here on Willis Avenue and

21 we used to go down and go through that whole

22 area down there.

23 Q When you said -- I am sorry, seven or eight, or

24 eight or nine?

25 A I would say around maybe nine or something like

1 that.

2 Q Did you see the pond?

3 A I don't remember if I ever seen that pond, and I

4 never paid attention to that. This started to

5 come when -- later on in the years when the pond

6 started building up there, that same thing,

7 whether that railroad car used to sit down in

8 here. It sat down there and we never paid that

9 much attention when we were walking down the

10 tracks.

11 Q Okay. So there was a railroad car on the

12 tracks?

13 A Well, this was on the siding here. I think it

14 was right here, it was this one here.

15 Q Why don't you mark --

16 A The way this slip is, I would say that the

17 railroad car was sitting right in here

18 someplace.

19 Q Okay. Why don't you mark the railroad car where

20 it would sit with an "R".

21 A (Witness complies.) I think it was sitting

22 right about there.

23 Q Okay. And you have made that "R" on your

24 Exhibit No. 1?

25 A Yeah, on No. 1, yeah.

1 Q And when did you see that railroad car?
2 A Jeez, I don't know. I mean it is there, I mean
3 it was something.
4 Q Do you remember how old you were?
5 A When you are kids, you don't look at like:
6 What's there? You know, it was there and they
7 were filling it. And sometimes we would be
8 walking down and it would be running over. It
9 would run down on the rails and went in that
10 pond.
11 Q Okay. I am sorry. I don't think I understood
12 what you said.
13 A Well, it ran -- the car sat there.
14 Q The railroad car?
15 A Yeah, the railroad car. And then, anyway, when
16 it got filled and -- when it got filled, it
17 would run over. It would -- what they did up at
18 the plant --
19 Q At the gas plant?
20 A Yeah, the gas plant. They pumped it there and
21 every day it went up -- in the nighttime it went
22 up and it came down. And they had a sleeve
23 around it and it was a wiper and it wiped off
24 the stuff. And that stayed in that gasket and
25 the guy that worked at the plant would pump

1 that, by hand pump, into a pipe and that ran to
2 the railroad car.

3 Q Okay.

4 A And when it rained, it was just as much the
5 water would get on the outside of the gasket.
6 And when he pumped the creosote in the blind,
7 the water would also go in the car and the water
8 is heavier than creosote, so the water would be
9 in the car and the creosote came off the top.

10 Q Okay. And how often did you see the railroad
11 car there?

12 A I was just thinking about that the other day.
13 You know, I don't remember ever seeing it gone,
14 you know, if they ever took it out of there. If
15 they took it out, there must be records of when
16 they took it in and out of there from the
17 railroad company, but I never paid attention
18 when it was gone or not.

19 Q So I understand what you are telling me is that
20 there was creosote being pumped from the coal
21 plant into the railroad car?

22 A It was pumped in the line that ran down the
23 railroad car.

24 Q Okay. Do you know if it was creosote or was it
25 something else?

1 A Well -- we didn't know. I monkeyed with
2 creosote when I was real young on fence posts
3 and that stuff. So I know it was creosote from
4 the smell of it and that stuff.

5 Q What did it smell like?

6 A Well, just -- it smelled like creosote.

7 Q What kind of car was it? What did it look like?

8 A It was a railroad car.

9 Q Was it a boxcar; tanker?

10 A No, no. It was a tanker, tank car.

11 Q What was it made out of?

12 A Steel, I suppose.

13 Q Now with respect to this pond of creosote that
14 you have drawn on Exhibit No. 1, did you ever
15 see things being dipped into that pond?

16 A No, never, never seen nothing ever dipped in
17 there. The only thing that ever was put in
18 there was something -- when we were kids, there
19 was some lumber piles over in here. And as
20 kids, you know, we wanted to make the short way.
21 We took and made a bridge across.

22 Q Made a what?

23 A Made a bridge across with the Schroeder's
24 lumber.

25 Q And when you saw the pond there, was the

1 Schroeder Lumber Company in operation?

2 A Well, I don't think so. No, I don't think. I
3 think that they were already done with then,
4 because that was -- I don't think Schroeder was
5 running then. They were, I think, closed down
6 at that time. I think that the shingle mill was
7 still going over in here. (Indicating)

8 Q By Ellis Avenue?

9 A Yeah, that was still going.

10 Q Let me go back for a moment, I might have asked
11 this. Did you ever see the railroad car come
12 and go?

13 A No.

14 Q Did you ever see someone working by the railroad
15 car putting stuff in?

16 A No, never did.

17 Q Did you ever see anyone from the railroad
18 walking around the railroad car?

19 A No.

20 Q Did you ever see anyone from the gas plant
21 walking around the railroad car?

22 A I never seen nobody walking around. Well, we
23 were only going by. You know, what guy was down
24 there monkeying with it and working on it, what
25 would we pay attention to it for?

1 Q I want to go back to the road here that you said
2 you drove across and got your wheels full of
3 creosote.
4 A Yeah.
5 Q Was that ever fixed?
6 A It was fixed when they put the sewage plant in.
7 That was that way for many, many years. I think
8 back in the '50's yet it was still all sawdust
9 road.
10 Q Okay.
11 A You know, right down in here one time they
12 brought logs in and they sawed logs there and
13 had a sawdust pile, a mountain of sawdust, and
14 we used to go around that. But finally it all
15 washed out into the lake, all of that stuff did.
16 Q Now was there a time to your knowledge that a
17 culvert was put underneath the road to drain?
18 A Yeah, they put a -- someone put a drain there
19 one time. Oh, I don't know what, that would
20 have been after I came back from the service, so
21 that would be like in the, oh, I suppose '48,
22 '49 around in there.
23 Q How big was the drain?
24 A I didn't pay attention.
25 Q Okay.

1 A It was just, they pushed the dirt, sawdust and
2 that stuff over the top of it, and it was just a
3 way of getting by it. I don't know who did it,
4 but it was just to get rid of that water.
5 Because when it was raining real hard,
6 it came up on the road, and then would fill in
7 our roots, you know. And they were just
8 eliminating that part of it, and they put the
9 drain in there, and that's why it got into the
10 lake.
11 Q Okay. So you are saying in '48 or '49 they put
12 the drain in --
13 A Well, around that time they put that drain in
14 there. Someone put a pipe across it.
15 Q Can you draw on this Exhibit No. 1 roughly where
16 that pipe would be?
17 A Well, this is where the creosote, sewage plant
18 was right there. (Indicating) And this is all
19 filled in here now. I would say it would be way
20 back over in here at that time.
21 Q Okay.
22 A And that pipe would run across the road like
23 about right in here. (Indicating) Say if that
24 road was in that spot. Now here, now they don't
25 show where all those pylons that they put in.

1 You know, they put a whole row of pylons all
2 along here and then they filled that in with tin
3 cans and garbage years ago.

4 Q Let me go back a second. Why don't you draw
5 those pylons in?

6 A I think the pylons were all --

7 Q As best you can.

8 A It was all along here. (Indicating) It would
9 be a whole row of pylons. Schroeder, I think
10 that the Schroeder Mill, not Schroeder, but Pulp
11 Hoist drove them in there and that was for the
12 City of Ashland. I am not sure of that, but I
13 am pretty --

14 Q Let me stop you for a second, okay? You have
15 now drawn a series of circles on Exhibit 1 where
16 the pylons are; correct?

17 A Yes.

18 Q And could you put just a "P" where those are.

19 A (Witness complies.)

20 Q Okay. And you said that the area between the
21 pylons --

22 A And the road.

23 Q -- and the road on Exhibit 1 was filled in?

24 A Yeah, it was filled in with garbage, garbage and
25 tin cans and old car bodies and all of that

1 stuff.

2 Q Do you know who put those tin can and car bodies

3 in there?

4 A The City of Ashland did.

5 Q Okay. How do you know that?

6 A Well, I don't know that -- that's what they were

7 doing.

8 Q Well, was that the City of Ashland?

9 A I mean, they have had dumps all over Ashland.

10 Across the street from where I, I live on 16th

11 Avenue, and the alley never went through.

12 Between 16th and 15th, they filled that whole

13 block in with tin cans and anything that you

14 want to imagine got thrown in there.

15 Q Let me go back to this area on Exhibit No. 1.

16 To your knowledge, did the City of Ashland use

17 this area between the pylons and the land as a

18 dump?

19 J A Well, they used this from the road, the pylon --

20 the pylon was to hold, it stopped the stuff from

21 going in the lake.

22 Q Okay. The City of Ashland used the area between

23 the road and the pylons as a dump?

24 A Yeah, that's what I would say that they were

25 doing.

1 Q Okay. Did you see trucks come in and deposit --
2 A Yeah, I mean --
3 Q -- the stuff?
4 A What?
5 Q Did you see trucks come in and deposit the
6 garbage?
7 A Yes, sure.
8 Q Were they city trucks?
9 A They were city trucks, yes.
10 Q Okay.
11 A When we were kids, we used to go down and pick
12 out the good stuff out of that stuff.
13 Q Okay.
14 A Like for scrap iron and that stuff.
15 Q Now you have drawn a line here on Exhibit 1.
16 A Yeah, that's where the road, the culvert I would
17 say would be.
18 Q Why don't you put a "C" there for culvert?
19 A I don't know a "C." How do you make a "C"?
20 Q Make a "P" for pipe. How is that?
21 A (Witness complies.)
22 Q There you go. And you put a "P" for pipe where
23 the line is where you thought the culvert was
24 between, to the lake?
25 A Yeah. That's the road that went down over the

1 top. But this has all been filled in right now.
2 That culvert would have come out like here in
3 the lake, you know. (Indicating)
4 Q Okay.
5 A Because they filled this in all along here many
6 years after.
7 Q Now after the culvert was put in, did the
8 conditions on the road change when it rained?
9 A I didn't pay attention to that.
10 Q Was there still the creosote over the road?
11 A There wasn't any on the road any more, because
12 they built the road up and they took and pushed
13 sawdust and that junk in there and they built up
14 the road.
15 Q Okay. Now do you know who put the culvert in?
16 A No, I don't know.
17 Q Do you know if it was the city?
18 A I don't know who did it. It was all there at
19 one time.
20 Q Okay. And you thought that was between what,
21 1948 or '49?
22 A I would say around there, yeah.
23 Q Now you said that you went to this dump area by
24 the pylons and the road?
25 A Yeah.

1 Q And what kinds of trash or dump stuff did you
2 see there?

3 A Well, old tin cans and old car bodies and any
4 kind of scrap, you know, like they figured was
5 going to stay there but didn't. It washed away.

6 Q Did you ever see any creosote material in there?

7 A What?

8 Q Did you ever see any creosote material in there?

9 A No, no. That creosote was there way before they
10 dumped that in there. We used to -- right in
11 this area here when we were kids, we built
12 rafts. Years ago, there was big logs in the
13 lake here. (Indicating)

14 Q Okay.

15 A And it was cedar and they always float good. We
16 would take three of them and we would nail them
17 all together with the two by fours and anything
18 we could get ahold of. Then over in this corner
19 here, and it was logs in the bottom, and we used
20 to take the logs out. (Indicating)

21 Q Okay.

22 A And they are hemlock logs and we used to take
23 them out, and they used to take and -- when you
24 take them out, the creosote would come up from
25 the bottom.

1 Q Okay.

2 A And as long as you stayed on the raft, it didn't

3 get on your feet. But once in a while when you

4 had to pull harder and then the raft went down

5 and some creosote got up on it and it got on

6 your feet, and then later on your feet would

7 peel. Your skin would peel off.

8 Q Did you ever see treated logs or treated

9 railroad ties in the Schroeder Lumber area?

10 A No, never. They said, as I have heard, that

11 someone said they were treated, but not when I

12 was around. Unless -- the only time they ever

13 treated lumber was way over here by the -- over

14 here they put, they had a big long -- well, an

15 outfit longer than this table, and they treated

16 it over there.

17 They used to put the logs in, the

18 planks in there, and then they had a big outfit

19 and they would put that creosote in there, and

20 then they would fill that up and let that soak

21 for, oh, I don't know how long, a week or two

22 weeks. (Indicating)

23 Q That's over by --

24 A And then they would take it back out again.

25 Q Okay. That's over by Fifth Avenue?

1 A Yeah, over towards Fifth.

2 Q Can you mark, Mr. Parent, where that longer area

3 was where lumber was dipped?

4 A You mean where that outfit was?

5 Q Yes, just the best you can.

6 A Well, this was Willis Avenue that came down.

7 This is one railroad track that went down in

8 there. Let me look at it my way.

9 Q Sure. Whatever is easiest for you.

10 A You got me upside down there. Oh, I would say

11 in that, I would say that that would be the, the

12 what 'ja you call it, when we made those grain

13 door operation.

14 Q Shingles?

15 A I would say it would have been roughly, I don't

16 know where Fifth Avenue would be. Willis Avenue

17 come down in here, but I suppose this would be,

18 Willis would have come right about in here. I

19 would say that thing would have been like right

20 about like here. (Indicating)

21 Q Okay. And why don't you put an "X" at that

22 location?

23 A In that area. I think it would be there anyway.

24 I would have to figure this more because these

25 were the slips we crossed over, this was the

1 empty slip, and then this is where we swam when
2 we were kids.

3 Q Mr. Parent, when did you see this structure with
4 creosote?

5 A That box? When that thing was put in there?

6 Q Yes.

7 A Well, that's when I was still a kid. Years ago,
8 you guys don't have it here, but they used to
9 have from the sawmill here, all along here over
10 to the grain door factory and the shingle mill,
11 they had trams, overhead trams, overhead where
12 the horses used to walk overhead and they had
13 them walk underneath. (Indicating)

14 And then along the side of the tram,
15 they put this thing. And what they were doing,
16 was they put it there to use the tram to pull
17 them things back out of there after the
18 creosote, and then they drained the creosote out
19 of there then. J

20 And then they took and hooked onto
21 them, and then they pulled them up on the tram,
22 up on the side of the tram where they drain off.

23 Q Okay. And how big were these pieces of wood
24 that were taken out?

25 A Oh, I suppose 16 feet long.

1 Q Like a telephone pole?

2 A By about, I would say, about four inches thick.

3 Q Like telephone poles?

4 A No, no. They were about eight inches wide,
5 something like that, eight or ten inches wide,
6 something like that.

7 Q Now other than at the time that you saw this
8 area here by Fifth Avenue, did you also see this
9 creosote pond at the end of Third Avenue.

10 A I couldn't really tell you that. I don't even
11 know where he even got the stuff to put in
12 there. I mean, they had a wooden tank car made
13 out of wood.

14 Q Okay.

15 A And they used to bring it down there and up on
16 the tram. And they just opened up and it run
17 down into that thing after it was full of
18 lumber.

19 Q Okay. ,

20 A Full of planking.

21 Q Okay. Let me make sure that I understood what
22 you said. Do I understand you correctly that
23 you recall a wooden tank car taking creosote
24 material to dump into the --

25 A Yeah.

1 Q -- container at the bottom of Fifth Avenue?

2 A Yeah.

3 Q Do you know where the wooden tank car got the

4 creosote?

5 A I never knew -- the only time I ever seen it was

6 sitting right there, (Indicating) on top of the

7 dock, on the tram. Then they would take it down

8 off of there and where it went, I don't know.

9 Q Now was that wooden tank car different than the

10 railroad car you mentioned earlier?

11 A Oh, yeah, that railroad car was all steel car,

12 you know, that was a regular steel car. This

13 was made out of wood, a wooden drum. I don't

14 know how many gallons it carried, but it

15 wouldn't have carried too much.

16 Q Roughly, Mr. Parent, how old were you when you

17 saw the wooden tank car with the creosote in it?

18 A Oh, I suppose 16 or 17, around in there.

19 Q You said that the -- I guess I'll call it J

20 lumber, for the lack of a better word -- the

21 lumber that was taken out of that tank, was

22 dragged out by the tramway?

23 A What?

24 Q The lumber was dragged out on the tramway?

25 A Well, it either -- the tram ran right alongside

1 of it and the tank was there, and they put that
2 there for, they had hoists on the trams. The
3 trams were -- well, I suppose the horse walked
4 underneath there, I suppose nine feet high.

5 Q And you took the lumber out from on top --

6 A And they had a thing there built where they
7 could lift that up out of there, and, you know,
8 then they were higher than the tank, the thing
9 that they had that was sitting there.

10 Q Did you ever see that?

11 A I seen them take it out, yeah.

12 Q And when they took out the lumber from the tank,
13 was it dripping?

14 A Oh, sure.

15 Q What was dripping off of it?

16 A Well, creosote.

17 Q Where was it dripping to?

18 A It ran back in the tank.

19 Q What was the tank made out of?

20 A Out of wood. It was a wooden tank. It was made
21 out of heavy planks.

22 Q Did you ever see horse drawn wagons on the
23 Schroeder Lumber site?

24 A Yeah, they had a lot of horse drawn wagons
25 around there. That's how they moved their

1 lumber.

2 Q Did you ever see the horse drawn wagons hauling

3 treated lumber?

4 A No.

5 Q Did you see ships coming into the Schroeder

6 Lumber Plant from the bay?

7 A They used to come in on this side between here

8 and -- this is where the tram came down here and

9 they loaded. I think it was once or twice I

10 have seen where boats came in. That was, I

11 would say that Schroeder Mill was just about all

12 done with then.

13 Q Okay.

14 A And they had a lot of lumber piles here and

15 there, all along here. (Indicating) They were

16 just loading up those, getting rid of the rest

17 of their lumber.

18 Q You said you saw lumber piles to the west of

19 Third Avenue; did I get that right?

20 A Well, they used to be over in here, a whole

21 bunch of them were in here. (Indicating) And

22 then when you come down, about this road right

23 in here, there used to be a lot of them right in

24 here, too.

25 Q Why don't you put an "L" on this Exhibit 1.

1 Just draw an "L" in each place where you
2 remember seeing a lumber pile?

3 A Well, I would say that the lumber piles, the
4 mill was there. I would say right about in
5 here. There was one there, and then they had
6 them right down in here. (Indicating)

7 Q And when you saw the lumber piles, was the
8 lumber treated?

9 A No, it was just from the mill.

10 Q Okay. Then once the lumber gets taken out of
11 that dipping tank, did you see where it went,
12 the treated lumber?

13 A I never seen where it went. I mean, I never
14 paid attention to that. That's all that I know
15 that they were doing. What they were doing with
16 it, I didn't really bother. I was just a kid
17 going down there swimming, I didn't bother.

18 Q Okay. Thank you.

19 MR. FURLOW: I think that's all that I
20 have. They might have some questions.

21 MS. EGGLESON: I have a few questions,
22 Mr. Parent.

23 EXAMINATION

24 BY MS. EGGLESON:

25 Q You said I think at the start that someone had

1 come out to your house sometime ago to talk to
2 you and take everything down.

3 A Yeah.

4 Q Do you know who that was?

5 A No. Well, the DNR was there and so was people
6 from the --

7 Q From the Power Company?

8 A -- from the Power Company, yeah.

9 Q Were the Power Company people there to talk to
10 you more than once?

11 A I believe it was twice they were up there.

12 Q Okay. The dipping tank that you were referring
13 to, was that on the ground?

14 A Yeah.

15 Q Was it heated?

16 A No.

17 Q And the culvert that you drew in on that diagram
18 there --

19 A Yes.

20 Q -- who put that in?

21 A I don't know who put that in there. Whoever did
22 it, I don't know. It was just there all at
23 once. I don't know.

24 (R.Parent Exhibit No. 2 was marked for
25 identification by the Reporter.)

1 Q Mr. Parent, would you look at what we have had
2 marked here as Exhibit No. 2, which I will
3 represent to you as a copy of an aerial
4 photograph of the Schroeder Lumber and oredock
5 area back in 1939?
6 A 1939?
7 Q Yes.
8 A Yeah. What do you want?
9 Q Does that look familiar to you?
10 A Yeah.
11 Q Can you recognize landmarks on there?
12 A This is where the Schroeder Mill is.
13 Q Okay.
14 A And this is where the Pulp Hoist was right in
15 here. (Indicating)
16 Q Okay. Can you tell where the --
17 A And the old coal dock was out there.
18 Q And the gas plant.
19 A What?
20 Q The gas plant?
21 A Well, that would be up in here someplace.
22 Q Would those white circles there be the gas
23 plant?
24 A Yeah, I suppose that's where it be right there,
25 yeah.

1 Q Okay. So where would that tar pond be that you
2 were talking about?
3 A Right about, I would say right about in here.
4 (Indicating)
5 Q Okay. You have made a circle there.
6 A Yeah. It would be in that area there.
7 Q Okay.
8 A I think the rails of it went down, so it was
9 right in there.
10 Q Okay. And can you see where the stuff that got
11 into the tar pond came from; do you see that?
12 A Well, I know where it came from. It came from,
13 most likely from the gas plant when they pumped
14 it out and it went down that underground line,
15 down to the railroad grade and it ran in there.
16 Q Okay.
17 A But see now, here you got -- this is where the
18 road was right here from Schroeder, but we drove
19 through many, but that all washed out later on.
20 That went way back up into here. (Indicating)
21 And it was all the -- when we were
22 kids, it washed it way back, I would say maybe
23 70 feet, you know, from where it is right now.
24 Q Okay.
25 A And then that has been refilled back in when

1 they put the pylon in there and put that garbage
2 in there and those tin cans in. That was all
3 refilled back in now. So you are looking about
4 70 feet out into the lake farther again.

5 Q Okay.

6 A And what it was at that time, and then this
7 corner, this Schroeder Mill was when this came
8 right straight down like here, they show this
9 thing here, but that was washed out here, too.

10 (Indicating) That's where the --

11 Q Is that where the culvert was?

12 A No, that's the -- I was going to say -- where
13 the burner was that burnt the old slab wood and
14 that stuff would come out of the Schroeder Mill.
15 They used to have a big thing down in there, I
16 don't know, it must have been 30 feet in
17 diameter and maybe 80, 90 feet high and they
18 used to dump the old slabs in there and that
19 burnt, and that went up.

20 Well, this has been all been filled in
21 now to this area here from the sewage plant from
22 the pulp -- um, from the mill. So I would say
23 that would have been right about in here
24 someplace where that culvert went across.

25 (Indicating) I would say that. I don't know.

1 It is hard to say.

2 Q Okay. And you have made a mark there?

3 A Yeah, and I would say it went across right about
4 there, you know, because this all got washed
5 away, all of this stuff way back to here like
6 that. (Indicating)

7 Q Okay. How about if I make a little arrow
8 pointing at that mark and put a "C" on it for
9 culvert. Is that what you meant there?

10 A I would say it was right in there, because we
11 had -- we come down that hill and made that
12 turn, and that all got washed out of there
13 through the years.

14 Q Okay.

15 MS. EGGLESON: I don't have any other
16 questions pending a break that I would like to
17 take. Janet, do you have any?

18 MS. GILBERT: No questions.

19 MS. EGGLESON: Okay. Can we take a
20 quick break for a minute here?

21 MR. FURLOW: Absolutely.

22 (Whereupon, a short break was taken
23 from 1:30 p.m. to 1:35 p.m.)

24 (R.Parent Exhibit No. 3 was marked for
25 identification by the Reporter.)

1 BY MS. EGGLESON:

2 Q Mr. Parent, before we move on to that knew one,
3 I forgot to ask you if you could locate for me
4 on this Exhibit 3 diagram -- oh, I am sorry,
5 Exhibit 2 -- on Exhibit 2 approximately where
6 that dip tank that you were talking about was?

7 A Maps are pretty hard to figure out the way.
8 Well, let me see, that was -- the grain door
9 factory and the shingle mill was here. This
10 would be the road that went down off of Willis
11 Avenue, off of the side of Willis Avenue. You
12 don't have any of the, the what-you-call-its on
13 there.

14 Q Well, I think that's from '39.

15 A The trams. Yeah, they should have been on there
16 in '39. They were, they should have been all
17 over. They went all over the whole place there.

18 Q Maybe they don't show up for some reason on
19 that.

20 A Well, let me see. That would be, and this is
21 Willis Avenue here, and then it goes over a
22 little bit toward the oredock, and then it went
23 down this way and the road is here and it went
24 down to the boat dock here.

25 The shingle mill was right in this area

1 and then they had an outfit here. We used to
2 take the firewood out of there when we were kids
3 to bring home for summer cooking. And then,
4 let's see, that would be -- roughly this went
5 out, this tram went out on this one, too.

6 I would say the way it would be, would
7 be, I would say right about there. And, you
8 know, I think that tram went right down through
9 here someplace. These might be the trams right
10 here. (Indicating)

11 Q Maybe that is the tram there, yes.

12 A That might be the tram right there. I don't
13 have my glasses on. All I see is a little light
14 line.

15 Q That's about all there is there. I am going to
16 mark an arrow to the circle you just drew.

17 A It was right off from this pier here it came
18 down, and it would be right off from here.

19 Q So that's the circle that I have put an arrow
20 and "T" by?

21 A Yeah.

22 Q Okay.

23 A I would say it was right in there.

24 Q All right. Now let me ask you to look at
25 Exhibit 3 here, a new one, and this one shows

1 the tram line; doesn't it?

2 A What?

3 Q Does this one show the tram lines; I think that

4 maybe these are the tram lines?

5 A Well, I suppose these were -- you want to see

6 too?

7 MR. FURLOW: I like to participate.

8 A Let me see. The tank car would be right in this

9 area here, because this is the one that went

10 down to this dock here where they lowered boats

11 over in here, I seen them once or twice. And

12 anyway, that would go down there.

13 And this one went down to the, I

14 thought this was another rail in here someplace.

15 They have two rails here but I don't, I thought

16 it was, this rail went all of the way down.

17 Maybe that's where the tank car was put

18 after, right in this area here. I would say it

19 J would be right there. (Indicating)

20 Q Where you put a "T" there?

21 A No, I put an "X" there.

22 Q Okay.

23 A And that went out to the, that railroad track

24 went out and then the slip, I think it is still

25 down there and they use that as a boat dock now.

1 Q Okay.

2 A And in the spring you see that water come down
3 in the spring, that was right about right in
4 here. (Indicating)

5 Q There was a spring there?

6 A What do I know about this, anyway? What did you
7 want?

8 MR. FURLOW: You lost the question?

9 MS. EGGLESON: The trams, the trams.

10 THE WITNESS: Oh, okay.

11 BY MS. EGGLESON:

12 Q Do you think those are the trams there?

13 A Now this would be the dock that went out -- I
14 would say that these trams, these in here was
15 all lumber piles. (Indicating)

16 Q This says "lumber pile, lumber pile, lumber
17 pile."

18 A You see the tram would be right in there.

19 Q Yes, tramway, there we go. That one is marked
20 tramway.

21 A So it would have been like in this area here.
22 (Indicating) It was right off of this dock that
23 it went out.

24 Q So this box that you have just drawn just south
25 of it --

1 A That is where the tank would be, should have
2 been right there. (Indicating)
3 Q Okay.
4 A I would say. That's as far as these maps, I
5 mean, I am not that familiar with the maps. I
6 am just going by what I remember back as a kid.
7 Q Sure.
8 A You see these trams, I took most of these trams
9 down and hauled them home for firewood.
10 Q Oh, they were wood.
11 A So I know where they were.
12 Q Okay. Over here much further to the east, there
13 is an indication of a sewer line, "open sewer."
14 A Yeah that --
15 Q Do you have any recollection of that and what
16 that was all about?
17 A I don't have, I don't remember seeing that water
18 run there. But back over here as, I would say
19 in the '50's, I used to take -- after all of
20 this stuff decayed, me and my dad, my dad was a
21 great guy for greenhousing, and this old sawdust
22 was great stuff for putting in the hot beds for
23 making tomato plants.
24 So we used to come in here and dig the
25 ground out of there and haul it home, but I

1 never seen a sewer line in there.

2 Q Okay.

3 A But like in here there was a place where it came

4 out, but that's where it ended. I think it is

5 still there underneath the railroad grade.

6 Q What's that?

7 A The sewer line.

8 Q Oh, okay.

9 A I mean I think that's been taken out since that.

10 It used to drain off from the street.

11 Q Okay.

12 A And what we did, that used to drain off and haul

13 the sand and all that stuff down there and that

14 was mixed with the sawdust and that made

15 wonderful black ground.

16 Q Okay.

17 MS. EGGLESON: I don't think that I

18 have any other questions then.

19 MR. FURLOW: I have one more. Janet?--

20 MS. GILBERT: Nothing.

21 MR. FURLOW: Just one more then.

22 FURTHER EXAMINATION

23 BY MR. FURLOW:

24 Q Mr. Parent, you said that the railroad car was

25 at your "X" on the --

1 A Yeah, I would say at about in there. But that,
2 there used to be another little, I thought it
3 was always another little rail stop, it only
4 went a little ways there. I don't know.

5 Q Let me stop you for a second. The railroad car
6 is an "X" on Exhibit No. 3 and that's on a
7 railroad siding?

8 A Yeah.

9 Q And that went out toward the dock?

10 A Yeah.

11 Q Did you ever see a boat pick up something from
12 the railroad car?

13 A No. All they ever -- I only seen it once or
14 twice, a boat out there. They were little
15 lumber boats and they didn't carry that much.
16 But guys were loading, you know, they were
17 loading lumber. I have the lumber hooks from
18 the Schroeder Mill, what they used to have years
19 ago.

20 Q And did you see the railroad -- strike that.
21 With respect to the area you have marked on a
22 box on Exhibit No. 3, the dipping tank --

23 A Yeah.

24 Q -- do you know how the creosote got to the
25 dipping tank?

1 A I don't know. All I remember is once or maybe
2 twice, they were up on the dock of the tram
3 pouring it down in there, and that's why they
4 built it that close to the side of the tram
5 where they could fill it. In them days they
6 didn't have pumps like they have got now.
7 Q They were pouring it from the wooden railroad
8 cars?
9 A Yeah, from the outfit down into that.
10 Q Okay. From the wooden railroad car?
11 A Yeah, wooden tank car that they built.
12 Q I got it.
13 MR. FURLOW: That's all that I have.
14 MS. EGGLESON: I don't have any other
15 questions.
16 COURT REPORTER: Okay. I would like to
17 know who wants copies of the transcripts.
18 MS. GILBERT: I would like a copy of
19 all of them.)
20 MS. EGGLESON: I would like a copy of
21 all of them, thank you.
22 MR. FURLOW: I would like a copy of all
23 of them.
24 (Whereupon, the above proceedings
25 concluded at 1:45 p.m.)

1 STATE OF WISCONSIN)
2)
3 COUNTY OF ASHLAND)

4 I, Susan K. Edwards, a Notary Public in and for the
5 State of Michigan, do hereby certify that Ray Parent, the
6 witness named herein, personally appeared before myself on
7 the 16th day of October, 2001, commencing at 12:45 p.m. at
8 the XCEL ENERGY OFFICE, Ashland, Wisconsin 54806, and was
9 by me sworn to testify the truth and nothing but the truth
10 in the within titled cause.

11 That said deposition was reported by me as a court
12 reporter and disinterested person, and was thereafter
13 transcribed into typewritten form under my direction.

14 And I further certify that I am not of counsel or
15 attorney for either or any of the parties to said
16 deposition, nor in any way interested in the outcome of the
17 cause named in the caption.

18 I have hereunto set my hand and affixed my seal of
19 office this 21st day of October, 2001.

20

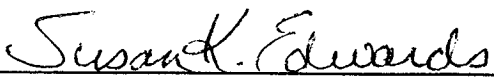
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SUSAN K. EDWARDS - NOTARY PUBLIC
IN AND FOR THE STATE OF MICHIGAN

My commission expires: July 8, 2006

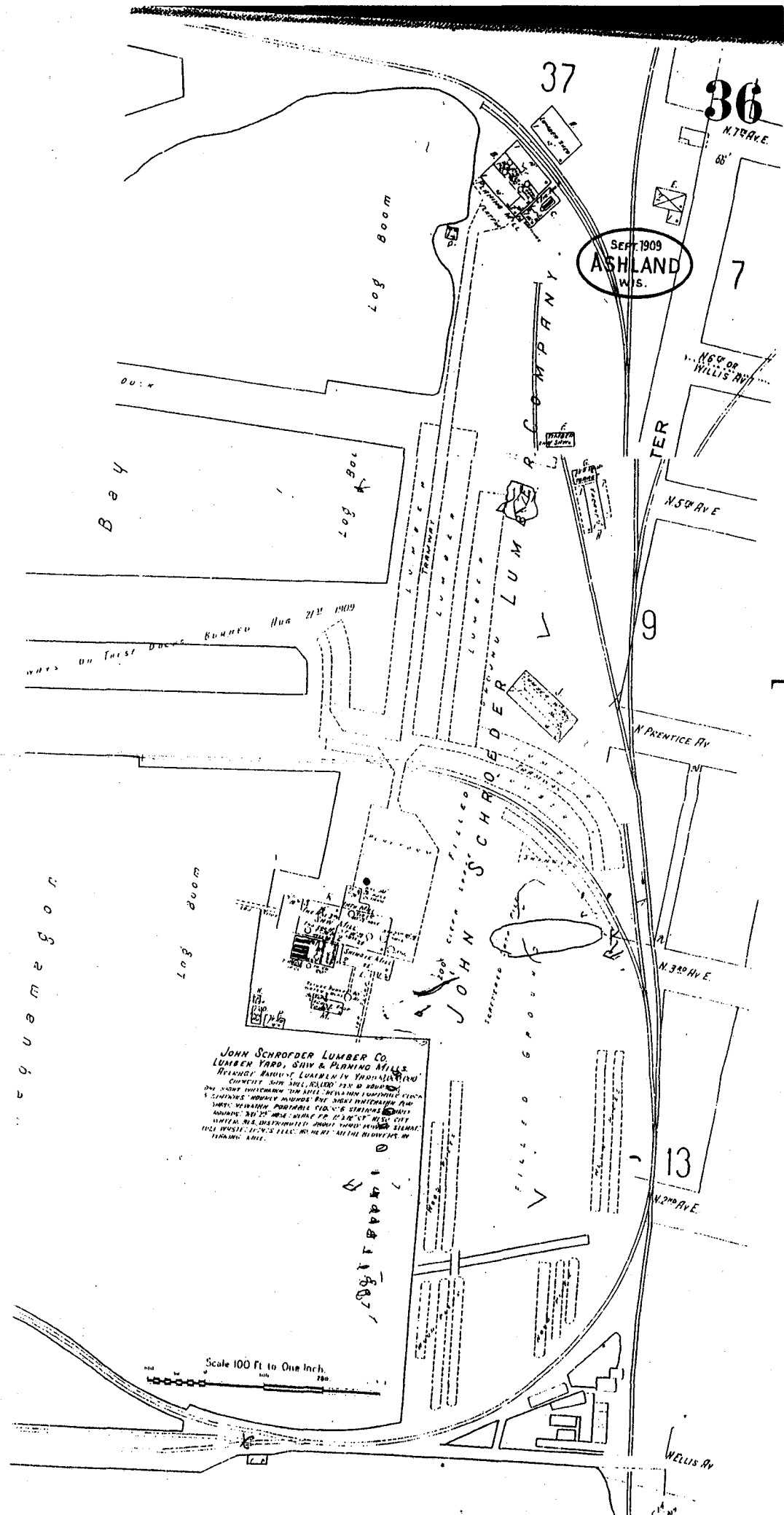




EXHIBIT
#2
K. Agent

F

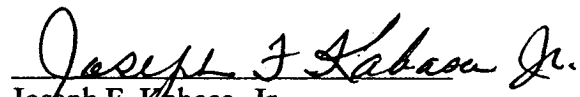
AFFIDAVIT OF JOSEPH F. KABASA, JR.

STATE OF WISCONSIN)
)
COUNTY OF ASHLAND) ss.


I, JOSEPH F. KABASA, JR., the undersigned, duly depose and state as follows:

1. I currently reside at 118 North Prentice Avenue, Ashland, Wisconsin 54806. I was born in 1940 and grew up at 215 North Prentice Avenue, on the ridge overlooking Kreher Park (the "Site").
2. I played in the Site area as a boy, from approximately the late 1940s to the early 1950s.
3. I recall a large area of coal tar extending from just west of my house, where the land leveled off below the railroad tracks, out to the current road, just south of the old Wastewater Treatment Plant. The coal tar was hard and crusty and one could walk across it. During the summer months and hot weather, the coal tar area would become soft and gooey and local people, including my father, would collect buckets full of the softened tar for roofing and other uses.
4. I recall that the City dumped its municipal trash into the bay from a dock area west of the Site, by the Consolidated Paper Company Pulp Hoist.
5. On the date of this affidavit, I visited the Site with representatives of Northern States Power Company. I marked the location of the tar pit on the attached aerial photo with a red marker and placed my initials next to it. I also marked the location where the City dumped municipal trash into the bay on the aerial photo with a ~~blue~~ red marker and placed my initials next to that mark. Red JJK
6. I have received no payment or benefit of any kind from any part for making this affidavit.

Dated this 21 day of September, 1995.

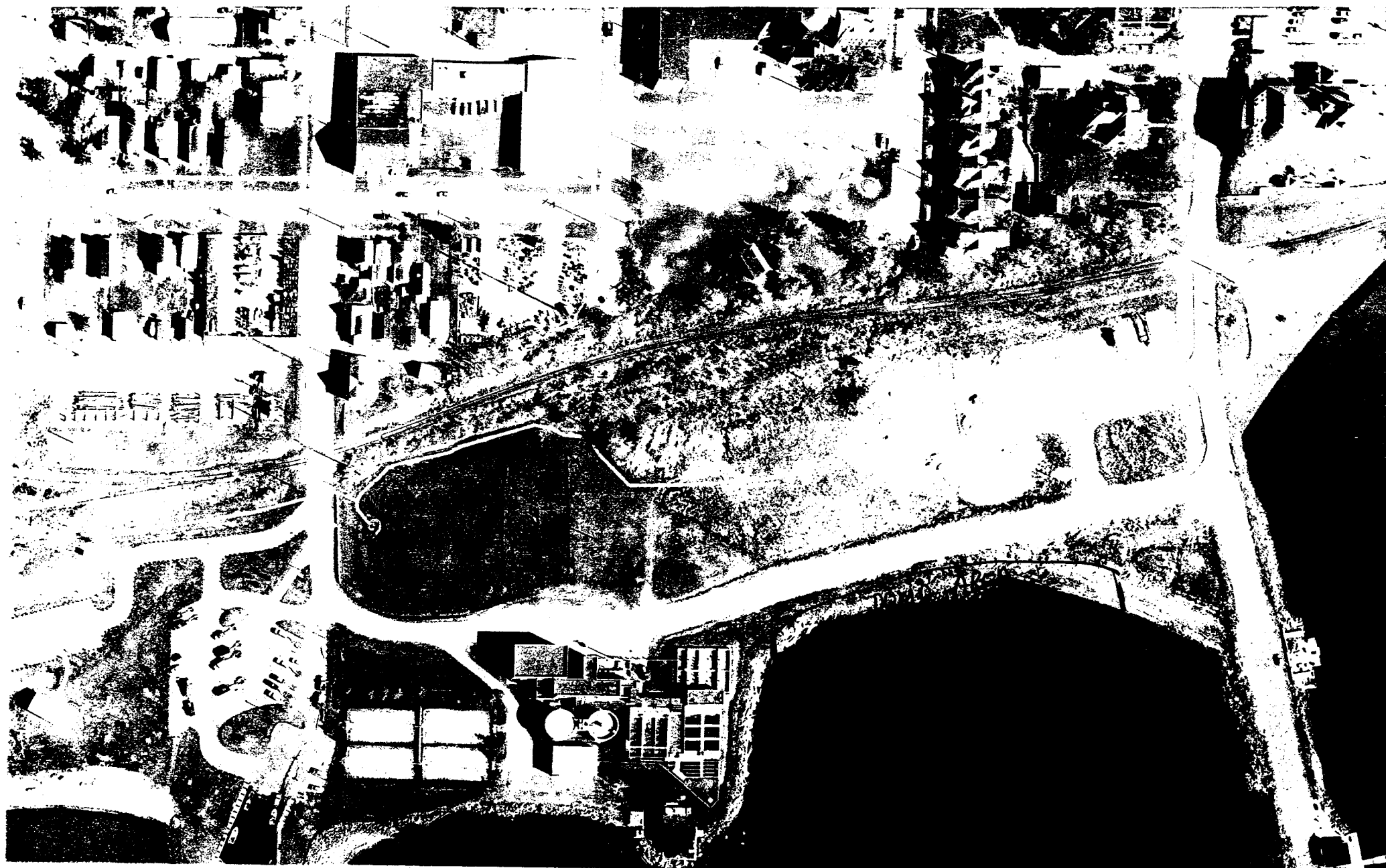

Joseph F. Kabasa, Jr.

Subscribed and sworn to before me
this 21 day of September, 1995.


Notary Public, State of Wisconsin
My commission is permanent.

I recall on numerous occasions seeing a black oil stained tanker car parked on the siding below the end of third street. On occasion I observed what appear to be spills on the ground around the tanker car

JJK



1
2 STATE OF WISCONSIN CIRCUIT COURT ASHLAND COUNTY
3 GEORGE P. GROSJEAN and
4 DIANE L. GROSJEAN, Case No. 02-CV-150
5 Plaintiffs, Deposition of:
6 vs. JOSEPH KABASA
7 NORTHERN STATES POWER COMPANY,
8 a Wisconsin Corporation, d/b/a
9 XCEL ENERGY SERVICES, INC., and
10 ARGIS SECURITY INSURANCE COMPANY,
11 Defendants,
12 and
13 COMPCARE HEALTH SERVICES INSURANCE
14 CORPORATION, ATRIUM HEALTH PLAN, INC.
15 Nominal Defendants.
16
17 Deposition examination of JOSEPH KABASA,
18 taken under and pursuant to Section 804 of the
19 Wisconsin Statutes and the acts amendatory thereof and
20 supplementary thereto, pursuant to notice, before
21 Kathleen M. Bay, Freelance Court Reporter and Notary
22 Public in and for the State of Wisconsin, at the
23 Ashland County Courthouse, Room 204, 201 West Main
24 Street, Ashland, Wisconsin, on the 8th day of October,
25 2003, commencing at 11:00 a.m. and concluding at
11:31 a.m.

19 APPEARING ON BEHALF OF THE PLAINTIFFS:
20 Mr. D.J. Weis
21 Attorney at Law
22 26 South Brown Street
23 Rhinelander, WI 54501
24
25 APPEARING ON BEHALF OF THE DEFENDANTS:
Mr. J. Drew Ryberg
Kelly & Ryberg, S.C.
1620 Ohm Avenue
P.O. Box 479
Eau Claire, WI 54702-0479
EBEA REPORTING GLIDDEN, WI 715-264-2113

1		
2	I N D E X	P A G E
3		PAGE
4		
5	EXAMINATION BY MR. RYBERG:	3,
6	EXAMINATION BY MR. WEIS:	20,
7	RE-EXAMINATION BY MR. RYBERG:	25,
8		
9	-----	
10		
11		
12	E X H I B I T S	
13		PAGE MARKED
14	Exhibit Number 1	3
15		
16	(The above original exhibit was included with the	
17	original transcript and copies thereof were included	
18	with each transcript copy.)	
19		
20	-----	
21		
22		
23		
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1 P R O C E E D I N G S
2 JOSEPH KABASA, after having been
3 first duly sworn, testified as follows:
4 (Exhibit Number 1 marked for
5 identification.)
6 EXAMINATION BY MR. RYBERG:
7 Q. Good morning, sir.
8 A. Good morning.
9 Q. Could you state your full name and
10 address?
11 A. Joseph F. Kabasa, Jr., 118 Prentice Avenue
12 North, Ashland, Wisconsin.
13 Q. What is your profession or occupation?
14 A. Retired electrician.
15 Q. How long did you work as an electrician?
16 A. Thirty-seven years.
17 Q. What is your date of birth, Mr. Kabasa?
18 A. 4/19/39.
19 Q. In the area of North Prentice, where you
20 are, is that North of Highway 2?
21 A. North of Highway 2, yeah. Lakeside of --
22 yeah, North of Highway 2.
23 Q. Mr. Kabasa, are you familiar with the area
24 that used to be the Schroeder Lumber Company?
25 A. Yes, I am.

1 Q. Are you familiar with the area that is or
2 was the waste water treatment facility in Ashland?
3 A. Yes.
4 Q. Have you lived here all of your life?
5 A. Yes.
6 Q. Went to grade school here?
7 A. Yes.
8 Q. As a young person did you walk in the area
9 by what is the old waste water treatment plant;
10 formerly the Schroeder Lumber Company area?
11 A. Yes.
12 Q. How often would you do that?
13 A. Oh, in the summer, daily. That was -- the
14 lake front was our -- where -- we played on that and
15 what they called the bricks, where the sewer plant is
16 now, we played on that daily. That was -- we were,
17 you know, kind of banned going to the highway side, so
18 everything was the lake front and that area because we
19 lived right above it.
20 Q. So you stayed on the north side?
21 A. Right.
22 Q. The bricks area, is that where the waste
23 water treatment plant is at present?
24 A. Right.
25 Q. How did it get that name, "the bricks"?

1 A. Well, that was all the foundation left of
2 the saw mills. There was all the -- there's still a
3 lot of them down there, the very things we played on,
4 the old pyramids and the bricks. They called it the
5 bricks because a lot of the foundation was still left
6 from the old sawmill.

7 Q. Mr. Kabasa, do you remember ever if there
8 was a creosote pond in the area where the Schroeder
9 Lumber Company was?

10 A. Oh, yes, very well.

11 Q. Did you see that?

12 A. Yes, I seen it.

13 Q. Was that boarded on the sides? Was it
14 discreet, or was it simply in the ground?

15 A. It was on the ground. It was just flat on
16 the ground. I mean it wasn't any higher than the
17 greenery on either side of it, but it was just black.
18 Must have been, I don't know, probably 30 yards wide
19 and the full length. There was another set of tracks
20 on there, it went from that side right to the road.
21 Right to that fire hydrant. I don't know if the
22 hydrant is still there or not, but it was pretty much
23 pretty close to probably a block long.

24 Q. About 30 yards?

25 A. About 30, 40 yards as I recall, yeah.

5

1 mean it isn't utilized, but all the structures and
2 ponds; everything is still there.

3 Q. When was that taken out of use, if you
4 remember?

5 A. Oh, about '93 or '94. It's been about
6 nine years now.

7 Q. Do you remember when that was built?

8 A. Let's see here. I was -- it was the first
9 primary plant was in -- let's see, '53? Must have
10 been about '52. '53 and '54, or '53 and '54, or '52
11 and '53.

12 Q. And that span between that and about nine
13 years it operated?

14 A. Right.

15 Q. You've written in here, it says "tar pit
16 area", is that right?

17 A. Right.

18 Q. And that conforms with the dimensions you
19 told me about just a second ago, is that right?

20 A. Right.

21 Q. And your initials are JFK?

22 A. Right.

23 Q. Looking at the tar pit area on the
24 attachment to the affidavit, where is the railroad
25 track, Mr. Kabasa?

7

1 Q. The area that you described, is that just
2 to the south of the waste water treatment plant where
3 the pond was?

4 A. Right.

5 Q. There was a ravine and then you get to
6 what's a little crossway there and then you come to
7 the waste water treatment plant, is that right?

8 A. Just the road.

9 Q. All right.

10 A. Just the road to the marina.

11 Q. Showing you Exhibit Number 1, is this a
12 copy of an affidavit that you gave back in September
13 of 1995?

14 A. Yes, it is.

15 Q. And that's a copy of your signature?

16 A. Yes.

17 Q. Attached to that, Mr. Kabasa, is a map, do
18 you see?

19 A. Right.

20 Q. And on the map we can see the current
21 waste water treatment plant, is that correct?

22 A. Yep.

23 Q. I say "current"; that's incorrect. It's
24 located elsewhere?

25 A. Well, yeah. It's still there though. I

6

1 A. Right here (indicating). This is the
2 primary line that's still in there, but somewhere down
3 here there was a switch. Not that far. Somewhere in
4 here. And then there was a siding that went, you
5 know, on the ground level there. See this is on a
6 railroad grade. This is probably 20 feet higher than,
7 you know, the railroad grade, and then there's another
8 20 foot -- approximately 20-foot embankment down to
9 these tracks and then another 20 foot that went down
10 to this level.

11 Q. Let me see if I understand that. If I am
12 standing up on the top looking out to the Bay, it's
13 about 20 feet or so down to the track level, is that
14 correct?

15 A. Correct.

16 Q. And then another 20 feet down to what
17 would be the level area?

18 A. Right, the tar pit level.

19 Q. The tar pit level, is it completely on the
20 level with regard to the old waste water treatment?
21 Is that true?

22 A. Right.

23 Q. And there wasn't boards; any kind of
24 enclosure for this tar pit?

25 A. No.

8

1 Q. Did you see what it was used for?

2 A. No.

3 Q. Do you know if, in the tenure of

4 Schroeder, any of the ties or lumber they made was

5 dipped into that tar pit area?

6 A. No. That was defunct already when we

7 played in it. You know, the only think I can

8 remember, like I said, here (indicating), a tank car

9 right adjacent to it on that lower sideling. There

10 was another set of tracks north of this present set

11 that's still here. There was another siding that

12 ended about right here (indicating) and it went down

13 and it went way back here, the switch, and then went

14 down. There was a tank car on them tracks pretty near

15 all the time and it was hooked up to some plumbing,

16 but I don't know if they pumped out of it, or pumped

17 something into it, you know. I wasn't aware of what

18 they -- if they used something out of the car, or put

19 something in the car. But there was, you know, pretty

20 near all the those years we played there there was

21 always a car on that side.

22 Q. And the years that you describe are the

23 1940's and 1950's, is that right?

24 A. Yeah, right. Yeah, about -- well, later

25 '40s. Probably like '49, to -- yeah, late '40s to

9

1 early '50s, because I was born there in '40 so about

2 from 9 to 13. I would say my age was about 9 to 13,

3 so about '49 to '52 or '53 you know. Like I say,

4 every summer and then --

5 Q. To depict the area of that side track that

6 you mentioned before, when we look at the tar pit

7 area, to the east of that you're saying that there was

8 a tanker from time to time, is that right?

9 A. No, to the south of it.

10 Q. To the south?

11 A. Right.

12 Q. So there was a spur that came off the

13 track which is south of that that went to the north,

14 correct?

15 A. Well, it's on the north side of it, but it

16 went parallel to it actually, but on the north side of

17 the present track. Like I say, it was, you know --

18 there was a switch back in here. They're still -- the

19 stuff is still there. You can pick it out. You can

20 pick out the sideling and there's still remnants of

21 the siding left on there.

22 Q. I wonder if you could take on Exhibit 1

23 that we have, please, and put an "X" on the area where

24 you say the siding was located?

25 A. I'm trying to see here now. This is

10

1 Prentice; so this is Third Avenue; so it was -- it was

2 right adjacent; so I would say the switch was in here

3 (indicating), you know, the switch for that siding.

4 And then that siding went down just parallel to those

5 tracks about into this area here (indicating), and it

6 just dead-ended there.

7 Q. Do you want to draw an "S" by that area

8 that you have drawn to represent siding?

9 A. (Indicating.).

10 Q. And the other area, did you mark that with

11 an initial, Mr. Kabasa?

12 A. What other one?

13 Q. This one (indicating).

14 MR. WEIS: He put an "S" there.

15 BY MR. RYBERG:

16 Q. And that's to represent what?

17 A. The siding.

18 Q. All right. So we have two "S's" to

19 represent the siding?

20 MR. WEIS: No, just one.

21 THE WITNESS: The switch, the switch

22 on the siding, you know. This was the switch to get

23 off the main track and then switch to the siding. You

24 went down and, you know, somewhere in here

25 (indicating) the tank -- there was a tank car.

11

1 MR. WEIS: Let me just ask him this.

2 You put kind of a dot to the west where the switch

3 was, correct?

4 THE WITNESS: Right.

5 MR. WEIS: Then you drew a line?

6 THE WITNESS: Representing the

7 siding. The track. The railroad track.

8 MR. WEIS: And then you put another

9 kind of a dot where the track ended?

10 THE WITNESS: Right.

11 MR. WEIS: And then the middle of

12 that you put an "S" to represent the siding?

13 THE WITNESS: Right.

14 MR. WEIS: Okay. If I can make a

15 suggestion, I'm afraid that that orange is not going

16 to pick up when we xerox; maybe we should have him do

17 it in black.

18 MR. RYBERG: Sure.

19 MR. WEIS: I know we got a copy of

20 the original affidavit anyway. I am going to just

21 have you do that, rewrite that in black so that it

22 shows up on the xerox copy when we make it.

23 THE WITNESS: (Indicating.)

24 CONTINUING EXAMINATION BY MR. RYBERG:

25 Q. On the switch do you want to make that a

12

1 "SW" so we know that from the "S"?

2 A. This isn't going to show up very good

3 either.

4 MR. WEIS: It will show up much

5 better on the xerox.

6 THE WITNESS: Okay. "SW", and that's

7 just siding, okay.

8 BY MR. RYBERG:

9 Q. Thank you, Mr. Kabasa. Thanks Jim. And

10 you've also indicated by the "SW" there was a tanker

11 there a fair share of the time, is that correct?

12 A. Correct.

13 Q. Did you ever see anything dipped in and

14 out of that tar pit area, Mr. Kabasa?

15 A. Nothing other than what we did. We played

16 on there ourselves, but no, nothing that anybody else,

17 other than the other kids that were down there.

18 Q. Was there creosote in that area of the

19 pond?

20 A. I guess it was -- we called it tar. I

21 don't know the difference between tar and creosote,

22 but it was a black sticky gooey substance that -- you

23 know, it was tar. Our dad -- we brought our dogs home

24 full of it and we got full of it, but whether it was

25 -- I don't know if there is a difference between

13

1 creosote and tar, but it was, you know, what we know

2 as tar like, you know.

3 Q. To you it was a tarry substance?

4 A. Right. It was thicker than what I know of

5 creosote as, you know. I understand creosote to be

6 kind of thin, watery, but this was real, real -- I

7 mean it wasn't -- if you dipped a stick in that, it

8 wouldn't drip off or runoff. The glob you picked up

9 would stay right there.

10 Q. In cold times of the year what was the

11 character of that pond?

12 A. Really hard. It practically froze. You

13 could walk anywheres on it. If it wasn't snow covered

14 you could walk anywheres on it and it wasn't -- you

15 know, nothing would stick to you, or adhere to your

16 shoes. You couldn't dig in it just with a stick or a

17 branch in cold times. Just in the summer months, you

18 know, it was -- well, it would soften up enough to

19 move it around, or dig it, or step in it and sink --

20 not really sink, but make an impression.

21 Q. Did you ever get out in the center of that

22 to see?

23 A. Oh, yeah. We walked across it length

24 wise, cross wise all the time.

25 Q. How deep would that be?

14

1 A. I don't know.

2 Q. Let's take the summer time... So let's

3 say the late 1940's or something, if you were to walk

4 into the center of that tar pit area, how deep would

5 that material be, this sticky tar like material on the

6 top?

7 A. I don't know how deep it went. All we

8 would go down, you know, would be, I don't know, four,

9 five, six inches. We would go down with sticks and we

10 brought some home in pails. Sometimes dad said to get

11 some, you know. He tarred his posts for holding the

12 porches up before he put them in the ground, so we

13 would gob some of it up and scrape with another stick,

14 but I don't know, we never went to the -- I'm sure it

15 was deeper than the four, five, six inches that you

16 know we done with sticks.

17 Q. Did you hear from anybody what the depth

18 of that area was?

19 A. No.

20 Q. In the period that you described, the late

21 '40s to the early '50s, in the affidavit, was it

22 generally that size?

23 A. Right, right, yep.

24 Q. Did people other than your family use the

25 material from the pond for coating and treating of

15

1 things?

2 A. I don't know of anybody else that, you

3 know, took any home, but I mean there was people on it

4 when we weren't. I mean there was people, you know,

5 that walked around it, and sometimes when we were

6 playing on the bricks, which was, you know, they were

7 -- well, this is on it now (indicating), but we were

8 on the other side of the road a lot too. There used

9 to be pulp rafts come in here; sometimes we would

10 fish. We wouldn't play on this thing daily. It

11 wasn't day in and date out, but it was a considerable

12 amount of time. I would say a couple times a week

13 during the summer and during school vacation.

14 Q. So in these years that you described, that

15 tar pit area was basically about the same?

16 A. Right.

17 Q. Do you know if Schroeder made use of that?

18 Did anybody tell you?

19 A. No, no.

20 Q. Do you know how the tar pit area came to

21 be?

22 A. No.

23 Q. I notice also in the affidavit there's

24 reference to trash being placed by the city in this

25 area. Do you see that in paragraph four?

16

1 A. Yeah.
2 Q. Tell me about that.
3 A. Well, that was the city dump in them
4 years.
5 Q. When you say that, what are you referring
6 to?
7 A. Well, the shore area right north of the
8 road here, right from the -- well, this is the --
9 yeah, this is the pulp hoist, all of this area. Yeah,
10 this whole shoreline there was a row of piling real
11 close together. I'd say, best as I can remember it, 9
12 or 10 years old, I would say about 15 feet, or 20 feet
13 out from the shoreline there was piling every -- well,
14 they were real close together. You could -- we used
15 to walk on the top of them because they were pretty
16 even, you know. There was a row along there and they
17 dumped -- the City used to pick up garbage at that --
18 in that period the City picked it up and it was dumped
19 right there. Everything.
20 Q. And written on the map attached to your
21 affidavit would be "dump area"?
22 A. Right.
23 Q. And that was written by you on the map?
24 A. Right.
25 Q. In this period that you're describing, it

17

1 was the 1940's, early 1950's, Mr. Kabasa, was this a
2 dump area throughout this area you have described
3 here?
4 A. Right.
5 Q. What sorts of materials do you recall
6 having been dumped by the City of Ashland in this area
7 depicted "dump area"?
8 A. Everything they took out of the garbage
9 cans. There was no recycling or nothing then.
10 Everything was put in one can. Everything. Glass,
11 bottles, cans, you know, and kitchen waste.
12 Everything they took out of -- everything that would
13 be put in the garbage. Ashes. Back then there was no
14 burning bans so people threw them into 55 gallon drums
15 and burned what would burn off and then they would
16 come and shovel out the cans into the truck and go
17 down there and dump it.
18 Q. Final area, Mr. Kabasa. In the area
19 identified with the tanker car with the "SW" next to
20 the tar pit area, you're familiar with that?
21 A. Um-hum.
22 Q. Do you know what that was placed in that
23 position for, or why it happened to be there, the
24 tanker car?
25 A. No, I don't.

18

1 Q. And the area that you live, if I look at
2 this map on Exhibit 1, somewhat to the southeast of
3 what we see here?
4 A. Right. That would be -- let me see
5 here... Where are we at here? This is our bar, so
6 this has got to be Prentice. Yeah, this would be --
7 this is our house (indicating).
8 Q. And where you currently live is where?
9 A. Right here now (indicating).
10 Q. You've circled an area at the intersection
11 of, is it Prentice?
12 A. Prentice and St. Claire. It's 118. I'm
13 on 118 North. This should be the highway.
14 Q. At the very south edge would be the
15 highway, is that it?
16 A. Yeah, and then this should be St. Claire,
17 yeah. Let me see here... Yeah, that's got to be
18 Prentice. That's the boat landing. Yeah, this is 118
19 where I live now, and this would be 215 where I lived
20 as a kid.
21 Q. So you have written 215 and 118 to
22 represent your addresses on that map attached?
23 A. Right.
24 Q. So all of your life have you lived in this
25 area that we see on the map?

19

1 A. Yes.
2 MR. RYBERG: Those are all the
3 questions I have. Thank you, sir.
4
5 EXAMINATION BY MR. WEIS:
6 Q. Just a couple of them for you. I think
7 Mr. Ryberg covered this, but this tanker that you used
8 to see on that side-line, you don't know who owned or
9 operated the tanker or what its function was?
10 A. Well, no, but who kicked us off of it was
11 Northern States Power. Vernon Sack from the power
12 company used to hook it up and unhook it. Vern Sack
13 was with the gas department there and he would hook it
14 up and unhook it and, of course, they didn't work
15 weekends so we got free reign and we would play on
16 that tank car quite a bit too, but it was hooked up
17 and plumbed and some of the -- sometimes during the
18 summer months if we would play on it, he would come
19 down and he would come down to either unhook or
20 connect, or unconnect it, and he put the run on us, so
21 it was -- it was there for the purpose of NS -- you
22 know, Lake Superior District Power at that time. It
23 was LSDP, so it was there for their purpose sometime,
24 but as I stated earlier, it was hooked up, it was
25 plumbed up, but I don't know if there was material put

20

1 into it, or material taken out of it. I am unaware of
2 that.

3 Q. And was it plumbed up to an area that was
4 near the tar pit?

5 A. Well, the plumbing come from this way, you
6 know. It was -- it ran under the tracks and there was
7 a stairway going down there with a light pole in there
8 and right off the side of the stairway there was a
9 little pump house and there was a piping manifold that
10 was permanent there in the cement abutment, which is
11 still -- remnants of it are all still there, and they
12 would do flexible, like fire hose or something to the
13 top of the car. But the plumbing come, you know, from
14 under the tracks and down by that stairway and that
15 little pump house was there and then electric ran down
16 there and then there was a street light, a light on a
17 pole, you know, right in that immediate area where the
18 tanker car was sided.

19 Q. Was this an enclosed tank car? In other
20 words, it wasn't open on the top, was it?

21 A. Yeah, right, no.

22 Q. So it looked like a tank car that would be
23 holding some kind of liquid, for instance, as opposed
24 to a solid?

25 A. Right, yes.

21

1 never used from that time, from '40, or the middle
2 '40s on, it was never dumped on. But this
3 (indicating) was for several years. I can't remember
4 exactly how many, but several years the City Dump was
5 there. And there's -- you know, there's lots of
6 remnants of that down there too. I mean you can go
7 down right today and see busted glass and steel rims,
8 tire rims and everything. Typical garbage. Stroller
9 wheels and buggy wheels laying there yet today.

10 Q. Okay. Did you personally observe
11 discharge at all at any time from the NSP area down to
12 the tar area?

13 A. No, no. To my recollection nothing went
14 -- I never seen no piping or discharge past the tank
15 car and I didn't even see any at the tank car. Like I
16 say, I don't know if they pulled out of it, or put
17 into it, but that was the farthest I have ever seen.
18 I mean there was never, in my time there, there was
19 never any fresh -- go to speak, fresh residue or tar.
20 It was pretty -- I would conclude it was pretty old
21 when we started playing on it because it was -- it had
22 -- it was fairly crusty. Probably 80 percent of it
23 was fairly crusty, but there was places where it
24 would, you know, ooze a little bit, but they were
25 scattered. Unless there was something underground

23

1 Q. And the plumbing that was coming out of it
2 was consistent with that too?

3 A. Right.

4 Q. But did it say anything on the side, or
5 give you any indication of what the contents were?

6 A. No, not that I can recall.

7 Q. Okay. The tar pit area that you've talked
8 about, that area was remote from, or separate from the
9 dump area, correct?

10 A. Oh, yeah, right, by the road. And, you
11 know, it was separated by the road and then, you know,
12 somewhat an area from where this goes to the start of
13 it, so it was probably -- I can visualize it now. I
14 would say it was 100 yards, you know, from where they
15 dumped to the closest point of the pit area.

16 Q. And they dumped right in the water, or
17 right on the beach?

18 A. They backed up in the water. Right in the
19 water.

20 Q. Okay. You didn't see this area that the
21 tar pit was then used as a city land fill?

22 A. No, uh-uh. I mean it wasn't. Not that I
23 didn't see it, but it never was, because I still live
24 there. I still own the homestead there, although I
25 moved a block, about a half a block and no, that was

22

1 bubbling there, which I don't know, but I never seen
2 anything discharged onto it from the surface.

3 Q. Okay. And even these oozing areas during
4 the summer were those areas where you would sink more
5 than four or five inches, or not?

6 A. No. We kind of stepped -- I mean they
7 were small. They were relatively small. I mean it
8 was -- there would be dry crusty areas the size of the
9 table, and then maybe an area the size of this paper.
10 That's where we would go and dip some out and tar
11 posts and that stuff, but they were scattered and it
12 didn't -- they were just soft pliable areas versus
13 bubbling. I mean they didn't bubble, or they didn't
14 flow or anything. It just was a soft area versus the
15 crusty dry area.

16 Q. Okay. I assume the stuff was black?

17 A. Yeah. Yeah, black. And it smelled like
18 today's tar smelled. I don't know if you can even get
19 it any more, but I know we used to -- dad used to have
20 it come in cans, you know. It comes in cans and you
21 just opened and used tar and it was exactly the same
22 practical texture and smell as that canned tar that he
23 used to buy years and years ago.

24 MR. WEIS: Okay. Thanks that's all I
25 have.

24

1 RE-EXAMINATION BY MR. RYBERG:

2 Q. I just have two questions. Do you know
3 the name of the railroad in this area to the south of
4 the tar pit?

5 A. Well, it would be one or the other because
6 both used that. Chicago Northwestern used that track
7 and the Soo Line used that track and I don't know
8 whose it was and I don't know who owned the track, if
9 it was co-owned or not, but both of those and I don't
10 recall what -- which one put the cars on the siding,
11 but one or the other because they both used it. The
12 Soo Line pulled pulp on it and the Chicago
13 Northwestern hauled coal from the coal dock at that
14 time and in later years, just in the past 12 or 15, of
15 course, Chicago Northwestern pulled out, so it all
16 reverted to Soo Line, which sold out to Wisconsin
17 Central, which sold out to Canadian National, so...
18 But at that time both those two railroads used that
19 track, Chicago Northwestern and Soo Line, but which
20 one hauled the tank cars in and out, I did not pay no
21 attention.

22 Q. Mr. Kabasa, in terms of the origin of the
23 tar pit, where it came from and so on, do you have any
24 idea?

25 A. No. No idea whatsoever.

25

1 Q. One last question... I may have been a
2 little bit confused on this point when were talking
3 about the area of the tar pit in the summer, August,
4 that sort of thing, much like today, was it generally
5 crusted over with some openings in a scattered area?

6 A. Right.

7 Q. And those openings that were somewhat
8 scattered about, they weren't very large?

9 A. Most of them weren't. There might have
10 been one or two, three by three, or two by three, or
11 something, but most were just small. I assumed,
12 looking at it now, the crust probably settled and then
13 it was always fluid -- it was probably fluid all the
14 way underneath, you know, and then the crust, as it
15 got heavier, would settle and then push that up, you
16 know, push it up in cracks, you know, in the cracks in
17 the crust. I assume, like I say, but I've never seen
18 nothing piped in there, or flowed in there, or dumped
19 in there, in my time.

20 Q. Mr. Kabasa, in the area of the opening, is
21 that the area that you described might be as deep as
22 four to five inches?

23 A. Right.

24 Q. So then you put a scoop in there and pick
25 it out?

26

1 A. Yeah. Pick a slab from the sawmill, or
2 bits of slab wood, you know, the slab cutting, or
3 laths, or we would just use sticks that we picked up
4 along the lake front.

5 Q. Was there a lot of laths or slabs in the
6 area of the waste water treatment plant in the late
7 '40s and '50s?

8 A. Right.

9 Q. Left by Schroeder?

10 A. Right. There still is to this day.

11 Q. What became of the tar pit?

12 A. Just covered over as far as I know. They
13 just covered it. They covered it over. Raised the
14 whole -- that whole area. They dumped oh, several
15 things. A lot of the big St. Joseph's Hospital, all
16 that was put down there. And there was a great big
17 lumber -- Bay Shore Lumber Company, a great big
18 building that was filled down there, that they used to
19 land fill, and they just built the whole thing up. It
20 was really low, the road I mean. It was under water a
21 considerable amount of time so they built the whole
22 area up, so consequently they covered, I guess two
23 feet, or -- two feet or three feet they raised that
24 whole area there.

25 Q. That's what you say the difference in

27

1 elevation is now?

2 A. Right, yeah.

3 Q. When you refer to "they", who are they
4 building up that area?

5 A. Whoever the contractors were that took
6 down the old brownstone St. Jo's Hospital and Bayshore
7 Lumber Company, and I think even the Knight Hotel is
8 in there. Remnants from the Knight Hotel.

9 Q. That's the fill came from those places and
10 was put down here?

11 A. Yeah.

12 Q. And St. Jo's and the Knight and all those
13 places, they're considerably to the south of that map,
14 is that right? Or are they in this area?

15 MR. WEIS: They were you mean?

16 BY MR. RYBERG:

17 Q. Yes. St. Jo's and the Knight and so on,
18 they were taken out?

19 A. Demolished, yeah. They were demolished.

20 Q. In those days when they were demolished,
21 where were they located?

22 A. Oh, yeah, south. St. Jo's was on Prentice
23 and the highway there. St. Joseph's was right here
24 (indicating). Bayshore Lumber Company was right --
25 well, yeah, right here (indicating).

28

1 Q. Okay. You're indicating to the east of
2 the intersection of St. Claire and Prentice?
3 A. Well, north and east. Yes, northeast.
4 Right across from me; where I live right now. It was
5 right straight across. A whole big barn. It was
6 about a four-story, got to be 50, 60 foot high, and
7 all that was hauled down there. And then the Knight
8 Hotel was on Main Street. M&I Bank is there now where
9 the Knight Hotel was. A big, I don't know, I bet
10 five-story I guess. Four to six-story huge
11 brownstone, the hotel. And then the hospital was
12 about five stories and that was a whole block long,
13 and -- or half a block deep and that's where the
14 current IGA super market is. Just three blocks down
15 here, right on the highway.
16 Q. So that's to the south of the highway?
17 A. Yeah, right.
18 Q. Okay.
19 A. And then this was on the south side of
20 Main Street, the Knight Hotel, and then the horse
21 barn, or Bayshore Lumber Company. It was a horse barn
22 in the trolley days. That's where they kept and fed
23 the horses. It was a horse barn. And then Bayshore
24 Lumber, a couple guys bought it and put a lumber
25 company in there for awhile and then it was abandoned

29

1 and NSP or lake -- LSDP bought the land and building
2 and they got a transformer yard on there now and a
3 pole -- a telephone pole storage area and transformer
4 storage area. But when they demolished all this, this
5 was all hauled in this whole lake front area there.
6 Q. When you're describing this lake front
7 area, you're describing what you see on the map,
8 correct?

9 A. Right, right.
10 MR. RYBERG: Thank you, sir.
11 (Deposition concluded at 11:31 a.m.)
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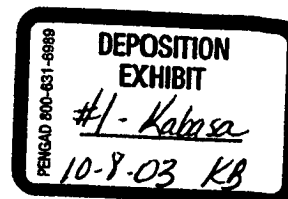
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1
2 CERTIFICATION PAGE
3 STATE OF WISCONSIN }
4 ASHLAND COUNTY } ss:
5 I, KATHLEEN M. BAY, a Professional
6 Freelance Reporter, a Notary Public in and for the
7 State of Wisconsin, do hereby certify that the
8 foregoing examination of the person stated was taken
9 before me on the date stated; and
10 That the same was taken upon oral
11 interrogatories reported by diskwriter by me,
12 Freelance Reporter, Route 1, Box 186B, Glidden,
13 Wisconsin 54527 at the time and place stated, and by
14 me reduced to writing, and that the foregoing is a
15 true and correct transcript of said notes to the best
16 of my ability, and of the whole thereof; and
17 That before the examination of said
18 deponent this person was first duly sworn by me to
19 testify the truth, the whole truth and nothing but the
20 truth relative to said cause; and
21 That I am not related in any way to any
22 party, their attorneys or an employee of any of them,
23 and that I am not financially interested in this
24 action.
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KATHLEEN M. BAY
Professional Reporter
Notary Public
State of Wisconsin
My Commission expires 03-12-06.

Dated this day of October, 2003,
Glidden, Wisconsin.

31



AFFIDAVIT OF JOSEPH F. KABASA, JR.

STATE OF WISCONSIN)
) ss.
COUNTY OF ASHLAND)

I, JOSEPH F. KABASA, JR., the undersigned, duly depose and state as follows:

1. I currently reside at 118 North Prentice Avenue, Ashland, Wisconsin 54806. I was born in 1940 and grew up at 215 North Prentice Avenue, on the ridge overlooking Kreher Park (the "Site").

2. I played in the Site area as a boy, from approximately the late 1940s to the early 1950s.

3. I recall a large area of coal tar extending from just west of my house, where the land leveled off below the railroad tracks, out to the current road, just south of the old Wastewater Treatment Plant. The coal tar was hard and crusty and one could walk across it. During the summer months and hot weather, the coal tar area would become soft and gooey and local people, including my father, would collect buckets full of the softened tar for roofing and other uses.

4. I recall that the City dumped its municipal trash into the bay from a dock area west of the Site, by the Consolidated Paper Company Pulp Hoist.

5. On the date of this affidavit, I visited the Site with representatives of Northern States Power Company. I marked the location of the tar pit on the attached aerial photo with a red marker and placed my initials next to it. I also marked the location where the City dumped municipal trash into the bay on the aerial photo with a blue marker and placed my initials next to that mark. *Red JJK*

6. I have received no payment or benefit of any kind from any part for making this affidavit.

Dated this 21 day of September, 1995.

Joseph F. Kabasa Jr.
Joseph F. Kabasa, Jr.

NSPW100042

Subscribed and sworn to before me
this 21 day of September, 1995.

David Wil
Notary Public, State of Wisconsin
My commission is permanent.

*I recall on numerous occasions
seeing a black oil stained
tanker car parked on the siding
below the end of third street.
On occasion I observed what
appear to be spills on the ground
around the tanker car*

JJK



G

0001

1 STATE OF MINNESOTA: DISTRICT COURT: HENNEPIN COUNTY
2 FOURTH JUDICIAL DISTRICT

3
4 ST. PAUL MERCURY INSURANCE COMPANY
and ST. PAUL FIRE and MARINE
5 INSURANCE COMPANY,
6 Plaintiffs,
7 -vs- CASE NO. CT 03-017809
8 NORTHERN STATES POWER COMPANY,
d/b/a XCEL ENERGY, INC., FIDELITY and
9 CASUALTY COMPANY OF NEW YORK,
and THE HOME INSURANCE COMPANY,

10 Defendants.

11 and
12 FIDELITY and CASUALTY COMPANY
13 OF NEW YORK,
14 Third-Party Plaintiff,

15 -vs-
16 ADMIRAL INSURANCE COMPANY, et al.,
17 Third-Party Defendants.

18
19 DEPOSITION OF DONALD R. LARSON, was
20 taken at the instance of the Plaintiffs, under and
21 pursuant to the provisions of the applicable
22 statutes, and the acts amendatory thereof and
23 supplementary thereto, before me, KATHY A. HALMA,
24 Registered Professional Reporter and Notary Public
25 in and for the State of Wisconsin, at the AmericInn,

0002

1 3009 Lakeshore Drive East, Ashland, Wisconsin, on
2 the 13th day of December, 2005, commencing at 10:50
3 o'clock in the forenoon.

4
5 A P P E A R A N C E S
6 MEAGHER & GEER, PLLP, 33 South Sixth
7 Street, Suite 4200, Minneapolis, Minnesota,
55402-3788, by MR. JACOB S. WOODARD, appeared on
8 behalf of St. Paul Fire & Marine, Inc., St. Paul
Mercury and The Phoenix Insurance Company.

9 MEISSNER, TIERNEY, FISHER & NICHOLS,
S.C., The Milwaukee Center, 111 East Kilbourn
10 Avenue, Milwaukee, Wisconsin, 53202-6622, by MR.
JEFFREY D. PATZA, appeared on behalf of Ranger
11 Insurance Company, TIG and U.S. Fire.

12 LORD, BISSEL & BROOK, LLP, 115 South
LaSalle Street, Chicago, Illinois, 60603-3901, by
13 MR. BRIAN TARNOW, appeared on behalf of the London
Market Insurers and INSCO.

14
15 GREENE ESPEL, 200 South Sixth Street,
Suite 1200, Minneapolis, Minnesota, 55402-1415, by
16 MS. JEANETTE M. BAZIS, appeared on behalf of
Northern States Power Company, d/b/a Xcel Energy,
Inc.

17
18 CLAUSEN MILLER, P.C., 10 South
LaSalle Street, Chicago, Illinois, 60603-1098, by
19 MR. SAL PELLEGRINO, appeared telephonically on
behalf of Old Republic Insurance Company.

20 NELSON, CONNELL & CONRAD, S.C., 150
North Sunnyslope Road, Suite 305, P.O. Box 1390,
21 Brookfield, Wisconsin, 53008-1390, by MR. PHILIP J.
TALLMADGE, appeared on behalf of Puritan/Westport.

22
23 HINSHAW & CULBERTSON, LLP, 222 South
Ninth Street, Suite 3100, Minneapolis, Minnesota,
55402-3336, by MS. DUANA J. GRAGE, appeared on
24 behalf of Fireman's Fund.

25 MAHONEY, DOUGHERTY and MAHONEY, PA,

0003

1 801 Park Avenue, Minneapolis, Minnesota, 55404, by
MR. PETER J. MANDERFELD, appeared on behalf of
2 Allstate as Successor to Northbrook.

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* * * *

I N D E X

MELVIN T. JOHNSON	
By Mr. Patza.....	4
By Mr. Tarnow.....	28
By Mr. Manderfeld.....	29
By Ms. Bazis.....	31

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E X H I B I T S

No. 1 Veritas Interview Summary; 1-19-95.....	11
No. 2 Map of Ashland MGP Site.....	15
No. 3 Map of Ashland MGP Site.....	16
No. 4 Map of Ashland MGP Site.....	17
No. 3 Photocopy of Aerial Photograph of MGP Site.....	17

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TRANSCRIPT OF PROCEEDINGS

2 DONALD R. LARSON, called as a witness
3 herein by the Plaintiffs, after having been first
4 duly sworn, was examined and testified as follows:

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EXAMINATION

BY MR. PATZA:

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Can you please state your full name for the
record, please?
Donald R Larson.
Mr. Larson, my name is Jeff Patza and I represent
certain of the insurers of Northern States Power.
We're going to be taking your deposition today.
I'm going to be asking you some questions about
the old Ashland MGP plant. Have you ever had
your deposition taken before?
No.
Okay. I will just go over the ground rules.
It's a pretty simple process. I'm going to be
asking you questions and you are going to be
giving answers. The court reporter here is going
to be taking down everything we say, so it's
important that we try to speak clearly and not
talk over each other. If I ask you a question

24 that calls for a yes or no answer, if you could
25 actually answer with the words yes or no instead

0005

1 of nodding your head or something else that the
2 court reporter can't take down. If I ask you a
3 question and you don't understand it, please let
4 me know and I will try to rephrase the question
5 so you do understand. If I do ask a question and
6 you do answer it, we will all assume that you
7 understood the question. Is that fair?

8 A All right.

9 Q Mr. Larson, did you do anything today in
10 preparation for your deposition?

11 A No.

12 Q Did you meet with anyone prior to your deposition
13 today?

14 A No.

15 Q Did you meet with Ms. Bazis or any other attorney
16 for NSP?

17 A Nobody.

18 Q Did you review any documents in preparation for
19 today?

20 A Say again?

21 Q Did you review any documents in preparation for
22 your deposition today?

23 A No.

24 Q Anything else that you might have done besides
25 talking to someone or reviewing any documents,

0006

1 anything you did?

2 A No.

3 Q Okay. And can you tell me your address, Mr.
4 Larson?

5 A 112 East Sixth Street, Ashland, Wisconsin.

6 Q And how long have you lived there, Mr. Larson?

7 A Approximately 23 years.

8 Q And where did you live before that?

9 A Let's see. 1001 Seventh Avenue East, and I was
10 there approximately 25 years.

11 Q And is that also here in Ashland?

12 A Yes.

13 Q Are you a lifelong Ashland resident, Mr. Larson?

14 A Yes, except for a brief period I was in Service
15 in Korea, and then I worked on the railroad and I
16 was in Chicago for a year, so I was gone. But
17 other than the three years, I have always been
18 here.

19 Q What years were you in the Service, Mr. Larson?

20 A '53 to '55.

21 Q And what branch of the service were you a member
22 of?

23 A Army.

24 Q And where were you stationed during that time?

25 A Korea.

0007

1 Q And what did you do in the Service in Korea?

2 A I run a petroleum dump.

3 Q Can you just describe for me briefly what you did
4 as far as running the petroleum dump in Korea?

5 A I was taking care of supplies for a regimen for
6 all of the lubricants plus all the fuels for
7 tanks and helicopters and such. It was all of
8 their needs.

9 Q And you mentioned that you spent some time
10 working on the railroad, is that correct?

11 A That's right.

12 Q Can you tell me what years those were?
 13 A That would be '52 to '53.
 14 Q And were you employed by a specific railroad
 15 company?
 16 A Sioux Line Railroad.
 17 Q And during that time that you were employed by
 18 Sioux Line Railroad, you were traveling around,
 19 is that correct?
 20 A Right.
 21 Q What are some of the different locations that you
 22 traveled to?
 23 A It would be Chicago, Des Plaines, Illinois,
 24 Waukesha, Wisconsin, North Fond du Lac and a few
 25 others, but that's basic.
 0008
 1 Q And during that time were you traveling around
 2 pretty much constantly? Were you ever based in
 3 one location?
 4 A No, we would do installations of crossing signals
 5 or train control signals for the railroad, so
 6 when you moved in, you were probably there
 7 anywhere from a week to two or three months.
 8 Q And you mentioned that part of your job duties
 9 when you were working for the railroad was
 10 installing train signals. Can you describe any
 11 other job duties that you had during that time?
 12 A Well, case wiring at North Fond du Lac. That's
 13 where you would wire the cases, the relay cases
 14 that controlled all the signals.
 15 Q And you mentioned there was a time where you
 16 lived in Chicago, is that correct?
 17 A Well, that was when I was on the railroad, yeah.
 18 Q So outside of 1952 to 1953 when you worked for
 19 the Sioux Line Railroad and from 1953 to 1955
 20 when you were in the Army stationed in Korea,
 21 other than that you have been a lifelong Ashland
 22 resident, is that correct?
 23 A Pretty much so, yes.
 24 Q And are you married, Mr. Larson?
 25 A Yes, I am.
 0009
 1 Q And what's your wife's name?
 2 A Charmaine, C-H-A-R-M-A-I-N-E.
 3 Q And how long have you been married?
 4 A Sixty-two years. Oh, no, 52.
 5 Q Congratulations.
 6 A It feels like 62.
 7 Q Do you have any children, Mr. Larson?
 8 A Yes, I have three.
 9 Q And what are their names?
 10 A Gary is the oldest one, and then there's Donna,
 11 the girl, and then Bradley, a boy, and, oh, I
 12 forgot one. His name is Michael.
 13 Q And your three sons, are their last names all
 14 Larson?
 15 A Yes.
 16 Q And Donna, your daughter, what's her last name?
 17 A Wallace.
 18 Q And do any of your children still live here in
 19 Ashland?
 20 A Yeah, there's -- well, one lives about nine miles
 21 out, so is that Ashland?
 22 Q In the general area, sure.
 23 A Yes. Two boys, Gary and Bradley, live in Ashland
 24 and Michael, he lives in Ironwood, and the girl,
 25 she lives just outside of Ashland.

0010

1 Q And what is the name of the town that your
2 daughter lives in?
3 A It would be the Town of Gingles, G-I-N-G-L-E-S.
4 It's a rural area.
5 Q And, Mr. Larson, I would like to ask you some
6 questions regarding your educational background.
7 Did you graduate from high school?
8 A Yes, I did.
9 Q What year did you graduate from high school?
10 A In '52.
11 Q And what high school did you go to?
12 A Ashland High School.
13 Q And did you continue your education after high
14 school?
15 A No, not really.
16 Q Did you attend any vocational or trade schools?
17 A No.
18 Q Okay. I'd like to also ask you some questions
19 regarding your employment history. We have
20 talked previously already about your time working
21 for the Sioux Line Railroad and your time in the
22 Service in Korea. Can you tell me what you did
23 after you got back from Korea in about 1955?
24 A I went back to work on the railroad for one year,
25 and then from there my employment changed to

0011

1 Ashland here to the -- it used to be the Marathon
2 Corporation.
3 Q So you started working for the Marathon
4 Corporation here in Ashland in about 1955?
5 A Yeah.
6 Q And what did you do for the Marathon Corporation?
7 A I was an electrician to start with, and then I
8 run an electrical crew for a number of years.
9 Q And how long did you work for Marathon?
10 A Forty years. Actually, it was changed to
11 different ones. I worked at the same place for
12 40 years, but it was under different names. It
13 was bought and sold.
14 Q Do you remember any of the various name changes?
15 A American Can, Fort James and that would be it.
16 Q So you worked for essentially the same company
17 until about 1995, is that correct?
18 A Right.
19 Q And then did you retire?
20 A I retired, yeah.
21 (Exhibit 1 was marked.)

22 BY MR. PATZA:

23 Q Mr. Larson, the court reporter has just handed
24 you what's been marked as Exhibit No. 1. It's a
25 summary of an interview of you on January 19,

0012

1 1995. Do you remember being interviewed on
2 January 19, 1995?
3 MS. BAZIS: Why don't we give him a
4 second to read it.
5 MR. PATZA: Sure.
6 THE WITNESS: I think you gave me the
7 wrong paper here for some reason or another. I
8 don't know this Mr. Lorenzo and I don't think I
9 have ever said anything about a recollection of
10 Schroeder Lumber Company or the coal tar pits on
11 the site, so I think there's a lot that doesn't
12 coincide with what I talked about.

13 BY MR. PATZA:

14 Q Okay. I will ask you some detailed questions
15 about what's contained in here. Do you remember
16 having your interview being done on January 19th
17 of 1995?
18 A Over the telephone?
19 Q I don't know whether it was --
20 A I was only called -- The only interview I had was
21 over the telephone, and that was that I would be
22 called.
23 Q And do you remember that telephone call being
24 approximately January 19, 1995?
25 A Would you restate that?

0013

1 Q Sure. Do you remember the telephone call that
2 was the interview, do you remember that happening
3 about January 19, 1995?
4 A Approximately.
5 Q Okay. And did the person who called you, did
6 they identify themselves as an interviewer from
7 Veritas Associates, do you remember?
8 A There was somebody that called, but -- Go ahead.
9 Q You can finish your answer, if you have anything
10 else to add.
11 A A lot of what's on here I just don't --
12 Q We will try to clear those things up.
13 A It doesn't ring a bell to me.
14 Q I will ask you some questions about that and we
15 will try to clear those details up. If you look
16 on the first paragraph of that interview summary,
17 it seems to indicate that the investigator
18 actually traveled to the Larson Insurance Agency.
19 Is that an insurance agency that you are
20 affiliated with, Mr. Larson?
21 A Yes.
22 Q And did you own that insurance agency?
23 A No, no, no, unh-unh. This is wrong. That's
24 another Larson. That's another Don Larson. He
25 went to school with me. I have got a lot of his

0014

1 bills, too, so this is where you have got the
2 wrong Don Larson.
3 Q Was your father, in fact, not an MGP employee?
4 A A what?
5 Q Did your father ever work for the Ashland MGP?
6 A No.
7 Q And you never worked during the summertime in
8 1948 or '49 for the MGP?
9 A No.
10 MR. PATZA: Okay. We might be able to
11 cut this real short, Mr. Larson.
12 MR. TALLMADGE: Ask him if he pitched a
13 no hitter.
14 THE WITNESS: The other Larson has
15 money, this one don't. This is completely out of
16 the realm here.

17 BY MR. PATZA:
18 Q Do you have any knowledge regarding the Ashland
19 MGP operations?
20 A As far as the tar pits and that?
21 Q Yes, or any knowledge whatsoever.
22 A As far as MGP, no, I don't, but I do remember the
23 tar pits.
24 Q When you say you do remember the tar pits, can
25 you explain that for me?

0015

1 A Well, my father worked for Consolidated Paper

2 Company. They used to raft logs in here and they
3 loaded them out into train cars that were shipped
4 to Consolidated for making paper. That was
5 located approximately one block west of the tar
6 pits down there.

7 Q And when you say "the tar pits down there" --

8 A Just one pit is what there was.

9 Q And where exactly was the tar pit?

10 A That would be approximately one block east of
11 Consolidated Paper which is located where the --
12 right now where the sailboats and everything, the
13 marina is now.

14 MR. PATZA: Off the record.

15 (A discussion was had off the record.)

16 (Exhibit 2 was marked.)

17 BY MR. PATZA:

18 Q Mr. Larson, I'm going to show you what's been
19 marked by the court reporter as Exhibit 2, and
20 that's a map somewhat of the Ashland MGP site and
21 Chequamegon Bay. Excuse me if I'm pronouncing
22 that wrong. If you can, using that map, can you
23 mark where the Consolidated Paper Company was
24 located?

25 A The saw mill was here and Prentice Avenue,

0016 1 Seventh Avenue East, Fifth, Fourth. I'd have to
2 have farther over to the left on that.

3 Q Let me see if I have got a better one.

4 A It would be at the foot of Prentice Avenue, and
5 one is Sixth Avenue East, which is about two or
6 three avenues east of it.

7 Q Was it to the west of Washington Avenue?

8 A Washington? That's over in Washburn, I think.

9 Do you have one with NSP on it?

10 (Exhibit 3 was marked.)

11 BY MR. PATZA:

12 Q Mr. Larson, you have been handed what's been
13 marked as Exhibit 3. I don't know if that map
14 helps you at all. I'm not sure if I have one
15 that --

16 A Water Street. I should have brought one of my
17 own here. It doesn't ring any bells. The ore
18 dock should be down there to the right and then
19 off to the left as you go west you would hit
20 Prentice Avenue, and that's where the power
21 company has where they made gas in there, that
22 and Water Street.

23 Q Would you be able to indicate on either of those
24 two maps that I have shown you where the tar pit
25 was located that you were talking about?

0017 1 A No, there ain't no way I can. You have got Water
2 Street on there, but you don't have the -- it's
3 all wrong. If you can find something with the
4 ore dock on it maybe and plus where the NSP plant
5 was, the garages there and where they made the
6 gas.

7 (Exhibit 4 was marked.)

8 BY MR. PATZA:

9 Q And just for the record, Mr. Larson, you have
10 been handed what's been marked as Exhibit 4.

11 A How far back do these things go? It doesn't ring
12 any bells.

13 Q Mr. Larson, do you remember the dates exactly of
14 when your father worked for Consolidated Lumber
15 and when your recollection of the tar pit is?

16 A Yes, he worked there from probably 1935 to after
17 the Second World War, so it would be '46.
18 Probably ten years.
19 (Exhibit 5 was marked.)

20 BY MR. PATZA:

21 Q Mr. Larson, you have been handed what's been
22 marked by the court reporter as Exhibit No. 5,
23 and that's an aerial photo taken in 1939 of the
24 former MGP plant and the surrounding area. Were
25 you able to locate the Consolidated Lumber

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1 Company or indicate where the lumber company was
2 on that photograph?

3 A The pulp waste would have been right here
4 (indicating), and in this area down here
5 somewhere in this area the tar pit should have
6 been (indicating).

7 Q Okay. There's a red pen right next to your
8 coffee cup there. If you could maybe indicate
9 with the red pen where you think the tar pit was,
10 and then if you could maybe write "tar pit" next
11 to it and then put your initials so we know that
12 you made that mark.

13 A Well, let's see. If I knew where Prentice Avenue
14 was on here, but you can't tell. Is this -- No,
15 that couldn't be.

16 Q I believe right where you were just pointing, the
17 two white circles, I believe those are the two
18 old gas tanks.

19 A It would have to be somewhere in this area here
20 (indicating).

21 MS. BAZIS: When you say "it," you are
22 referring to?

23 THE WITNESS: The tar pit.

24 BY MR. PATZA:

25 Q Okay. Where you drew the circle on Exhibit 5 if

0019

1 you want to just write the words "tar pit"
2 underneath just so that we are clear.

3 A (Witness responds.)

4 Q Thank you, Mr. Larson. You can hold on to that.
5 With respect to the tar pit, did you ever go down
6 and see the tar pit yourself?

7 A Well, I passed it numerous times. There used to
8 be a road that would go down to -- down past that
9 over to Consolidated where the workers -- that's
10 the only way you could drive down there. I used
11 to ride with my dad down there, and plus I used
12 to walk down the railroad tracks a lot to get
13 there, because if he got out of bed in the
14 morning and went to work and he was out of snuff,
15 I would have to go and buy him snuff and take it
16 down, otherwise he was uglier than hell.

17 Q Mr. Larson, if you could maybe also with that red
18 pen indicate where that road that you indicated
19 was that went to the former Consolidated --

20 A Well, if this is right, if this is -- it would
21 have went down -- it's hard to say, but it would
22 have been down somewhere down in here
23 (indicating) and then over into here
24 (indicating), yeah.

25 Q And the times that you actually physically saw

0020

1 the tar pit would either have been traveling down
2 that road or walking down the railroad tracks, is
3 that correct?

4 A Right, and pushing wood back up the hill on the
5 railroad track. They used to get broken pulp
6 sticks, and the boss would tell them that he
7 could have it, so me and my brother used to load
8 them broken ones on a push cart on the track and
9 we would push it down about four or five blocks
10 to where we lived and then unload it and then go
11 back down and do the same thing and then, of
12 course, we had to cut it up with a saw, too, buck
13 saw.

14 MS. BAZIS: Can we clarify what time
15 period we are talking about?

16 THE WITNESS: What timeframe? That
17 would have to be probably early '40's.

18 BY MR. PATZA:

19 Q Would that have been the earliest time you would
20 have seen the tar pit, would have been the early
21 '40's?

22 A No, it would have been before that, because I
23 used to sit on my dad's lap on the Model T and
24 steer it and we would go down there.

25 Q Would you be able to ascertain maybe the earliest

0021 time that you remember seeing the tar pit?

2 A I'd probably be about seven-years old, somewhere
3 in there.

4 Q What year would that be, Mr. Larson?

5 A That would have to be in 1940.

6 Q And do you remember what the latest was you might
7 have seen the tar pit?

8 A I believe it was still there when I got out of
9 Service, which would have been '54, and then
10 after that I couldn't tell you.

11 Q When you first saw the tar pit when you estimate
12 around 1940, how big with the tar pit?

13 A To me, thinking back, it looks like it could have
14 probably been 24-foot wide by probably a depth of
15 30 feet or 40-feet long.

16 Q And was it a freestanding structure or was it
17 just a pit in the ground?

18 A It was a pit. If I can recall right, it seemed
19 like there was pilings driven on one side and
20 then there was like it would be a timber mounted
21 along the side. It almost looked like at one
22 time it could have been a part of a dock. It
23 could have been something, too, that the lumber
24 company might have soaked their logs in, too, you
25 never know, for tar.

0022 1 Q When you said there were pilings on one side of
2 the tar pit, do you mean wood pilings?

3 A That's what you would see, yeah. It looked like
4 there was posts or pilings on there.

5 Q And were these just wood scraps or wood chips?
6 How would you describe it?

7 A It looked like it was manmade.

8 Q A manmade pile of just scrap or --

9 A No, not piles. Pilings is when they drive them
10 in -- posts in the ground and then they mount a
11 timber alongside of it.

12 Q And that was just on one side of the tar pit?

13 A As far as I can remember.

14 Q Do you remember which side of the tar pit the
15 wood pilings were?

16 A The side I could see would be the west side.

17 Q And then I forgot what your response was. You

18 said on the other side you might have seen
 19 something. I just don't remember what you said.
 20 I'm sorry.

21 A I don't know what I seen. That's all I can
 22 remember as far as the configuration. It was
 23 built almost like it could have been a boat dock
 24 at one time, and it's a possibility it was
 25 because at one time that was all open water in

0023

1 there, most of it, and according to the
 2 old-timers when they -- that was one of the
 3 biggest lumber mills there was in Northern
 4 Wisconsin. They used to build their docks out of
 5 the slabs. They would keep piling them on end
 6 and then build their docks over the top of them
 7 down there.

8 Q The tar pit itself, was the tar at the ground
 9 level? I'm just trying to get a picture of the
 10 actual tar pit.

11 A It was fairly level down there all the way
 12 across, yeah.

13 Q The tar didn't come up to the level of where the
 14 wood pilings were?

15 A No, no.

16 Q The tar was at ground level?

17 A No, it was below, yeah.

18 Q And this might be a stupid question, but how did
 19 you know that there was actually tar in the tar
 20 pit?

21 A Well, I hate to say it, but where we lived they
 22 had an infestation of bugs and the city was
 23 trying to get rid of them. My dad went down and
 24 got some, and I don't know what he mixed it with,
 25 but he poured it all away around the property and

0024

1 the bugs won't come across this tar.

2 Q So your dad actually went and got some of the tar
 3 out of that tar pit?

4 A Yes, he actually did, yeah.

5 Q And I think you described the tar pit when you
 6 first remember seeing it back in about 1940 and
 7 you said you believed it was still there after
 8 you got back from the Service in about 1955. Did
 9 the tar pit change in its appearance at all?
 10 Were the wood pilings still there? Any
 11 differences at all?

12 A It actually probably looked about the same. Then
 13 after that when they covered it over, I don't
 14 know. I don't recall it. The only reason I can
 15 recall it is in my younger years that used to be
 16 my play area along the whole waterfront, so --

17 Q And your testimony was that the latest you
 18 remember seeing the tar pit was about the mid
 19 1950's, is that right?

20 A Somewhere in there, yes.

21 Q And you just said a few moments ago about when
 22 they covered it. Do you know who covered up the
 23 tar pit?

24 A No, I don't. I don't. I have no idea.

25 Q And I believe you just mentioned that when you

0025

1 were younger you used to play in that general
 2 area on the lakefront?

3 A Well, all the way from Seventh Avenue East all
 4 the way along, yes.

5 Q And was that during the time that the Schroeder

6 Lumber Company was still in operation?
7 A No, they weren't operating anymore. They were --
8 They quit operating.
9 Q Do you remember what years, even you can give me
10 an estimate, as far as the time you would go
11 playing down in that area?
12 A It had to be from '38 to the early '40's,
13 something like that.
14 Q Did you ever notice any other tar pits during
15 that time besides the one that we have been
16 talking about?
17 A Unh-unh.
18 Q Mr. Larson, I might have asked you this already,
19 but aside from the tar pit that we have just been
20 talking about, do you have any other knowledge
21 about coal tar at all in that general area of the
22 Ashland MGP plant?
23 A No.
24 Q Do you have any knowledge of the Ashland MGP
25 plant itself?
0026
1 A Not really. I knew the guy that run it, but I
2 never, ever went over there or was around there,
3 you know.
4 Q And who is the guy that you knew that ran the MGP
5 plant?
6 A I knew him. His name was Gashouse Pete. That's
7 what I knew him by.
8 Q And I would just say for the record that Gashouse
9 Pete is Pete Lorenzo. Did you know that or no?
10 A Well, that's a possibility. I don't know that.
11 Q Do you remember any of your conversations with
12 Gashouse Pete regarding the MGP plant?
13 A No.
14 Q Did you ever have any conversations with him
15 regarding the MGP plant?
16 A None whatsoever.
17 Q Do you know is Gashouse Pete still alive?
18 A He would have to be probably in his 100's, so I
19 think he's passed away.
20 Q Do you know anything about the manufactured gas
21 process itself?
22 A No, I don't.
23 Q Do you know anything about the fact that coal tar
24 is a by-product of the manufactured gas process?
25 A No.
0027
1 Q Do you know anything about what the MGP plant did
2 with the coal tar that it produced?
3 A No, I don't.
4 Q Do you know anything about the disposal practices
5 at the MGP plant?
6 A No.
7 Q Do you know anything or have any knowledge of
8 whether the MGP plant sold any of the coal tar
9 that it produced?
10 A No.
11 Q Do you have any knowledge regarding the Schroeder
12 Lumber Company operations?
13 A No, that was before my time.
14 Q Do you have any knowledge regarding the
15 wastewater treatment plant operations?
16 A No.
17 Q Do you have any knowledge of any of the activity
18 by the City of Ashland down at that general area
19 of the MGP plant?

20 A No, I don't.
 21 Q Do you have any knowledge regarding the current
 22 investigation and remediation that's going on at
 23 the site of the former MGP plant?

24 A No.
 25 Q And if I could just take you back to this

0028
 1 interview transcript or summary. I just want to
 2 make sure that we're clear that you don't think
 3 that this was an interview of you but some other
 4 Donald Larson?

5 A When you asked about the insurance company, it's
 6 the other Don Larson that owns the insurance
 7 company.

8 Q And do you know is that Mr. Larson still alive?
 9 A I believe he is. Where he's at, I don't know.
 10 He lives either in Washburn or someplace in the
 11 outer district.

12 Q But as far as you know, he still lives in the
 13 general area?

14 A I think he is, yes.
 15 MR. PATZA: I think that's all I have.
 16 My colleagues here might have some follow-up
 17 questions for you.

EXAMINATION

18
 19 BY MR. TARNOW:

20 Q Mr. Larson, my name is Brian Tarnow. I also
 21 represent some of the insurers in this matter. I
 22 just have one question for you. You were talking
 23 about the tar pits. Do you have any idea how the
 24 tar pit came to be located in that area?

25 A No, I don't.

0029

1 MR. TARNOW: Thank you.

2 MR. TALLMADGE: I have no questions.

3 MS. GRAGE: Nothing.

EXAMINATION

4
 5 BY MR. MANDERFELD:

6 Q Sir, my name is Peter Mandefeld. I represent one
 7 of the other insurance companies. This other
 8 Donald Larson, did you say you were schoolmates?

9 A He was ahead of me in school by two or three
 10 years, so I'm 72 so he would probably be about 75
 11 or 76.

12 Q Do you know if the Larson Insurance Agency still
 13 exists?

14 A Yes, it does up on Second Street West, but he had
 15 sold it out.

16 Q Do you know if it was sold to a family member
 17 or --

18 A I think his son plus somebody else is in together
 19 on that.

20 Q Do you know his son's name?

21 A No, I don't.

22 Q This other Donald Larson, do you happen to know
 23 his middle name or middle initial?

24 A I think it's R, the same as mine. We had three
 25 or four in town at the same time. It must have

0030

1 been --

2 MS. BAZIS: All the mothers must have
 3 gotten together and conspired.

4 THE WITNESS: It ain't bad until you
 5 start getting flyers in the mail you owe for this
 6 or that.

7 BY MR. MANDERFELD:

8 Q If we find this other Mr. Larson, would you like
9 us to let him know you have some of his mail?
10 A No, I don't -- No. I probably shouldn't say it,
11 but I used to get his phone calls when he was in
12 there and he was unlisted, so finally I got his
13 number and I gave it all out.
14 Q Do you still have that?
15 A No, I don't.
16 MR. MANDERFELD: That's all I have, sir.
17 Thank you.
18 MR. WOODARD: I have no questions.
19 EXAMINATION
20 BY MS. BAZIS:
21 Q Just one follow-up question. You said that your
22 dad got some of the tar from the tar pit and
23 poured it all the way around the property so that
24 the bugs wouldn't cross the tar line. I presume
25 you were talking about your home?
0031
1 A That's where we lived when I was a child.
2 Q About when was that, do you remember?
3 A Oh, God, that has to be in the '40's, early '40's
4 sometime.
5 MS. BAZIS: Thank you. We reserve the
6 right to read and sign.
7 MR. PATZA: Thank you very much for your
8 time today, Mr. Larson. Sorry we put the wrong
9 interview in front of you.
10 (At 11:32 p.m. the deposition
11 concluded.)
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CERTIFICATE OF WITNESS

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3
4 I, DONALD R. LARSON, have read the
5 foregoing page and the corrections, if any, having
6 been noted. The same is now a true and correct
7 transcript of my testimony.
8
9

10 _____
11 DONALD R. LARSON
12

13 STATE OF WISCONSIN)
14 _____ COUNTY)
15

16 Subscribed and sworn to before me this
17 ____ day of _____, 2006.
18
19

20 _____
21 Notary Public

In and for the State of Wisconsin
My commission expires _____, _____.

22
23
24
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0033

1 STATE OF WISCONSIN)
2 MILWAUKEE COUNTY)
3

4 I, KATHY A. HALMA, Registered
5 Professional Reporter, do hereby certify that the
6 deposition of DONALD R. LARSON, was taken before me
7 at the AmericInn, 3009 Lakeshore Drive East,
8 Ashland, Wisconsin, on the 13th day of December,
9 2005, commencing at 10:50 in the forenoon.

10 That it was taken at the instance of
11 the Plaintiffs upon verbal interrogatories.

12 That said statement was taken to be
13 used in an action now pending in the STATE OF
14 MINNESOTA, CIRCUIT COURT, HENNEPIN COUNTY, FOURTH
15 JUDICIAL DISTRICT, in which St. Paul Mercury
16 Insurance Company, et al., are the Plaintiffs,
17 Northern States Power Company, d/b/a Xcel Energy,
18 Inc., et al., are the Defendants and Fidelity and
19 Casualty Company of New York is the Third-Party
20 Plaintiff and Admiral Insurance Company, et al., are
21 the Third-Party Defendant.

22 A P P E A R A N C E S

23 MEAGHER & GEER, PLLP, 33 South Sixth
24 Street, Suite 4200, Minneapolis, Minnesota,
55402-3788, by MR. JACOB S. WOODARD, appeared on
25 behalf of St. Paul Fire & Marine, Inc., St. Paul
0034 Mercury and The Phoenix Insurance Company.

1 MEISSNER, TIERNEY, FISHER & NICHOLS,
2 S.C., The Milwaukee Center, 111 East Kilbourn
Avenue, Milwaukee, Wisconsin, 53202-6622, by MR.
3 JEFFREY D. PATZA, appeared on behalf of Ranger
Insurance Company, TIG and U.S. Fire.

4 LORD, BISSEL & BROOK, LLP, 115 South
5 LaSalle Street, Chicago, Illinois, 60603-3901, by
MR. BRIAN TARNOW, appeared on behalf of the London
6 Market Insurers and INSCO.

7 GREENE ESPEL, 200 South Sixth Street,
Suite 1200, Minneapolis, Minnesota, 55402-1415, by
8 MS. JEANETTE M. BAZIS, appeared on behalf of
Northern States Power Company, d/b/a Xcel Energy,
9 Inc.

10 CLAUSEN MILLER, P.C., 10 South
LaSalle Street, Chicago, Illinois, 60603-1098, by
11 MR. SAL PELLEGRINO, appeared telephonically on
behalf of Old Republic Insurance Company.

12 NELSON, CONNELL & CONRAD, S.C., 150
13 North Sunnyslope Road, Suite 305, P.O. Box 1390,
Brookfield, Wisconsin, 53008-1390, by MR. PHILIP J.
TALLMADGE, appeared on behalf of Puritan/Westport.

14 HINSHAW & CULBERTSON, LLP, 222 South
15 Ninth Street, Suite 3100, Minneapolis, Minnesota,
55402-3336, by MS. DUANA J. GRAGE, appeared on
16 behalf of Fireman's Fund.

17 MAHONEY, DOUGHERTY and MAHONEY, PA,
18 801 Park Avenue, Minneapolis, Minnesota, 55404, by
MR. PETER J. MANDERFELD, appeared on behalf of
Allstate as Successor to Northbrook.

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That said deponent, before
examination, was sworn to testify the truth, the
whole truth, and nothing but the truth relative to
said cause.

That the foregoing is a full, true
and correct record of all the proceedings had in the
matter of the taking of said deposition, as
reflected by my original machine shorthand notes
taken at said time and place.

KATHY A. HALMA, RPR

Dated this 29th day of December, 2005,
Milwaukee, Wisconsin.

H

AFFIDAVIT OF KEN VENO

STATE OF WISCONSIN)
) ss.
COUNTY OF ASHLAND)

I, KEN VENO the undersigned, duly depose and state as follows:

1. I reside at 517 17th Avenue West, Ashland, Wisconsin 54806. I am a 53-year old lifelong resident of the Ashland area and a current NSP employee at the Bay Front Plant.

2. I attended grade school and junior high school at the St. Agnes School. The St. Agnes School was located on top of the bluff adjacent to the west end of the Kreher Park site (the "Site").

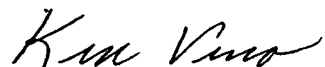
3. In the late 1940s and early 1950s, I recall playing on the piles of waste disposed of on the west end of the Site in the same area now used to park boat trailers. I specifically recall a wide variety of demolition debris being disposed of including roofing materials and cinders. The waste piles were rat infested and I remember chasing the rats.

4. There was a tar pit east of this dump area. It was north of the railroad tracks and south of the wastewater treatment plant. The area was wooded. I do not recall any activity in the tar pit area. *I have heard from my father and others K.V. that the tar pit was used to dip lumber.*


5. On the date of the affidavit I visited the Site with representatives of Northern States Power Company. I marked the location of the tar pit on the attached aerial photo with a red marker and placed my initials next to the mark.

6. I have received no payment or benefit of any kind from any party for making this affidavit.

Dated this 21 day of September, 1995.


Ken Veno

Subscribed and sworn to before me
this 21st day of September, 1995.


Notary Public, State of Wisconsin
My commission is permanent.



1
2 STATE OF WISCONSIN CIRCUIT COURT ASHLAND COUNTY
3 -----
4 GEORGE F. GROSJEAN and
5 DIANE L. GROSJEAN,
6 Plaintiffs,
7
8 Case No. 02-CV-150
9 Deposition of:
10 KENNETH VENO
11
12 vs
13
14 NORTHERN STATES POWER COMPANY,
15 a Wisconsin Corporation, d/b/a
16 XCEL ENERGY SERVICES, INC., and
17 AEGIS SECURITY INSURANCE COMPANY,
18 Defendants,
19
20 and
21 COMPCARE HEALTH SERVICES INSURANCE
22 CORPORATION, ATRIUM HEALTH PLAN, INC.
23 Nominal Defendants.
24 -----
25 Deposition examination of KENNETH VENO,
taken under and pursuant to Section 804 of the
Wisconsin Statutes and the acts amendatory thereof and
supplementary thereto, pursuant to notice, before
Kathleen M. Bay, Freelance Court Reporter and Notary
Public in and for the State of Wisconsin, at the
Ashland County Courthouse, Room 204, 201 West Main
Street, Ashland, Wisconsin, on the 8th day of October,
2003, commencing at 11:32 a.m. and concluding at
11:50 a.m.

19 APPEARING ON BEHALF OF THE PLAINTIFFS:
20 Mr. D.J. Weis
21 Attorney at Law
22 26 South Brown Street
23 Rhinelander, WI 54501
24
25 APPEARING ON BEHALF OF THE DEFENDANTS:
Mr. J. Drew Ryberg
Kelly & Ryberg, S.C.
1620 Ohm Avenue
P.O. Box 479
Eau Claire, WI 54702-0479
EBEA REPORTING GLIDDEN, WI 715-264-2113

1		
2	I N D E X	P A G E
3		PAGE
4		
5	EXAMINATION BY MR. RYBERG:	3,
6	EXAMINATION BY MR. WEIS:	15,
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8		
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10		
11	E X H I B I T S	
12		PAGE MARKED
13	Exhibit Number 1	3
14		
15	(The above original exhibit was included with the	
16	original transcript and copies thereof were included	
17	with each transcript copy.)	
18		
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1 P R O C E E D I N G S
2 KENNETH VENO, after having been first
3 duly sworn, testified as follows:
4 (Exhibit Number 1 marked for
5 identification.)
6 EXAMINATION BY MR. RYBERG:
7 Q. Good morning, sir.
8 A. Good morning.
9 Q. Could you state your full name and
10 address?
11 A. Yes, Kenneth R. Veno, 517 17th Avenue West
12 in Ashland, Wisconsin.
13 Q. What is your profession or occupation?
14 A. I work for Xcel Energy. I am an assistant
15 operator at Bay Front Steam Plant in Ashland.
16 Q. Are you currently employed by Xcel?
17 A. Yes, I am.
18 Q. Before that were you employed by LSDP?
19 A. NSP and then LSDP.
20 Q. Are you familiar with the area that the
21 waste water treatment plant sits by at the present
22 time?
23 A. Yes.
24 Q. Did you grow up in this area?
25 A. Yes, I did.

1 Q. Where did you go to high school?
2 A. Ashland High School.
3 Q. And where is that located?
4 A. That's located -- was located on Ellis
5 Avenue.
6 Q. And Ellis is to the south of the
7 Chequamegon, is that it?
8 A. Ellis is to the south.
9 Q. And as a young person, what street did you
10 live on?
11 A. 411 St. Claire Street and 606 St. Claire
12 Street.
13 Q. What is your date of birth, Mr. Veno?
14 A. December 26, 1941.
15 Q. You went to grade school and middle school
16 or junior high where?
17 A. I went to grade school at St. Agnes School
18 and then I went to high school at Ashland High School.
19 Q. Where is St. Agnes?
20 A. St. Agnes is down -- it's on Front Street,
21 just one block east of Ellis Avenue.
22 Q. Is it in the area by the Chequamegon,
23 where the Chequamegon currently is?
24 A. It would be the next block over, one block
25 over would be the St. Agnes Church and School. Next

1 to the St. Agnes Church -- well, it's Our Lady Of The
2 Lake right now, there used to be a little grade school
3 and that's where I used to go.
4 Q. That's where you got your start?
5 A. That's where I got my start.
6 Q. And St. Claire would be to the north of
7 that?
8 A. St. Claire would be to the north.
9 Q. Had you ever seen the manufactured gas
10 plant that LSDP ran at any point? Were you familiar
11 with that?
12 A. The gas plant? I recall them having a gas
13 plant there, but I never seen it run.
14 Q. The current NSP operation is right next to
15 the Our Lady Of The Lake?
16 A. That's right.
17 Q. That's at Third and St. Claire is it?
18 A. Let's see, it would be Second -- let's
19 see, it would be Second and Third where they're
20 located.
21 Q. In relation to attending St. Agnes and
22 having grown up on St. Claire, did you play in an area
23 of the waste water treatment plant as a young person?
24 A. Yes, I did.
25 Q. I want to show you Exhibit Number 1 from

5

1 your deposition, is that an affidavit that you gave
2 before, Mr. Veno?
3 A. Yes, it is.
4 Q. In September of 1995?
5 A. Yes.
6 Q. Is that accurate in terms of its contents?
7 A. Yes, I've read it and this is accurate.
8 Q. And this describes that St. Agnes was on
9 the bluff just above the area of the waste water
10 treatment plant, is that correct?
11 A. That's right.
12 Q. Did you ever play in that area down by the
13 waste water treatment plant? In other words, before
14 that came to be, did you play in that area?
15 A. Oh, yes, many times.
16 Q. And what was in that area, Mr. Veno?
17 A. There was garbage down there where people
18 dumped garbage, all along there, and there was like
19 old houses, old buildings they used to dump down
20 there; brush. We used to go down there with our BB
21 guns and rocks and shoot big rats and everything down
22 there, you know.
23 Q. Kind of a paradise for young people?
24 A. Paradise for young boys.
25 Q. And attached to Exhibit 1 is a map of this

6

1 area, correct?
2 A. That's right. That's correct.
3 Q. And there are two areas on here that
4 appear to be circled; is that your work, Mr. Veno?
5 A. Yes.
6 Q. One says "dump"; is that the dump area?
7 A. That's a dump area.
8 Q. With your initials?
9 A. With my initials.
10 Q. And the debris that went in there, is it
11 dump material picked up by City dump trucks, or was it
12 debris from various buildings?
13 A. Various buildings and different people
14 that dumped their garbage down there right over the
15 hill, you know, and bricks and everything. Debris,
16 like old brick buildings and everything they would
17 tear down, and brush. There was quite a bit of
18 garbage down there at that time I remember.
19 Q. Would the City use that as a dumping area?
20 A. I think at times they did.
21 Q. Would people go to the very top of the
22 bluff and simply back up pickups or any other
23 conveyance they had and let the material flow down the
24 hill to the area of the dump?
25 A. Yes, I remember that.

7

1 Q. And the size of this dump area, can you
2 describe that, Mr. Veno?
3 A. The size of it?
4 Q. The dimensions? How big across?
5 A. I would say it had to be a couple hundred
6 by a couple hundred feet.
7 Q. And it might be quite tall depending on
8 the material that was there?
9 A. It was quite tall, yes.
10 Q. How tall do you remember that being?
11 A. Roughly, 10, 12 feet maybe.
12 Q. Was it roughly --
13 A. Just roughly, you know, from what I
14 remember.
15 Q. Was it roughly circular in shape?
16 A. Yes, it was more circular in shape.
17 Q. Over to the right of that on the attached
18 map that you have, is there something that refers to a
19 tar pit with your initials on it?
20 A. There was a tar pit, I remember that.
21 Q. Is that marked on there?
22 A. Yes. It would be right across -- right
23 here (indicating) it's marked. It would be right
24 across from the treatment plant.
25 Q. Just to the south of the treatment plant?

8

1 A. Just to the south.
2 Q. Is that a roadway that runs between what
3 you have marked tar pit and the waste water treatment
4 plant?
5 A. Yes, um-hum.
6 Q. And then to the south of that would be the
7 railroad line, is that right?
8 A. And to the south is the railroad line.
9 Q. What railroad came through there?
10 A. At that time it was, if I recall, I think
11 it was the Soo Line Railroad.
12 Q. Were you ever present or available to see
13 the Schroeder Lumber in operation?
14 A. No. That was before my time.
15 Q. Did you ever hear if the tar pit had any
16 use by Schroeder Lumber?
17 A. From my father, he's dead now, that that's
18 what he told me, that the Schroeder had came -- a lot
19 of that came from the Schroeder Lumber Company.
20 Q. Did anybody -- did your dad explain to you
21 the origin of the tar, where it came from?
22 A. No, he didn't.
23 Q. Did he explain the use that Schroeder made
24 of the tar pit?
25 A. No, he didn't make mention of anything

9

1 A. It would be like partially liquid and
2 maybe a little crust on it, you know.
3 Q. Anybody ever tell you the depth of that
4 tar pit?
5 A. Nobody ever told me.
6 Q. When you were a young person, you grew up
7 in two different spots on St. Claire?
8 A. That's right.
9 Q. What became of the tar pit?
10 A. You know, I really don't know. I couldn't
11 answer that, what became of it, to tell you the truth.
12 Q. Did residents make use of the material in
13 the tar pit?
14 A. I never -- I've never seen anybody make
15 use of it.
16 Q. Was it dark in color?
17 A. It was dark in color, black.
18 Q. Jet black?
19 A. Jet black.
20 Q. Did it smell?
21 A. It had kind of a smell to it, a tarry
22 smell. You know how tar smells.
23 Q. In the area that you show on the map
24 there, Mr. Veno, the dump and the tar pit area, was
25 this generally a woods in that area?

11

1 like that.
2 Q. And the size of that tar pit area that you
3 have shown somewhat?
4 A. I would say it's probably, if I remember
5 right, it's a long time ago, maybe 50 by 100 feet,
6 something like that.
7 Q. Roughly circular?
8 A. Roughly circular.
9 Q. And the material, was that encased? Was
10 there any kind of wooden structure it sat in, or was
11 it flush on the ground?
12 A. Flush on the ground.
13 Q. Do you have any idea how deep it was?
14 A. No, I really don't.
15 Q. Never made any effort to walk out --
16 A. No.
17 Q. And the consistency of that tar pit
18 material, let's say in the summer of the year, what
19 would that be like?
20 A. It would be soft, you know, like if you
21 see tar, you know, and everything, when it gets real
22 warm in the summer time, it gets soft.
23 Q. Would this be a liquid in, let's say
24 August of the year, or would it be partially liquid
25 and some crusted over?

10

1 A. That was a wooded area at that time down
2 there and they cleaned a lot of that out.
3 Q. Did your father ever mention that lumber
4 was dipped in that tar pit at one time?
5 A. He never mentioned that to me.
6 Q. Did anybody ever indicate that to you?
7 A. I never heard anybody.
8 Q. In the time that you were a young person
9 playing in this area, did you see anybody make use of
10 the material in the tar pit?
11 A. I never have.
12 Q. The area that you have shown as the dump
13 area to the west, Mr. Veno, how long was that used as
14 a dump area, do you recall?
15 A. Well, let's see. My age, if I can
16 remember, I'd say a good eight years, roughly.
17 Q. So sometime in the mid '50s?
18 A. Yeah. Yes, from what I seen, you know.
19 Q. You were born in '48?
20 A. I was born in '41.
21 Q. And what became of the dump area? How was
22 that eliminated or changed?
23 A. I think -- right now I think they just put
24 fill, dumped fill over it, you know, dirt and
25 everything they got from streets up -- you know when

12

1 they redo streets and everything like that, clay and
2 stuff like that; covered it up.
3 Q. And in terms of the tar pit area, was that
4 covered also?
5 A. I think that was covered.
6 Q. Do you remember if that was evacuated, or
7 taken off the surface first? Do you have any idea of
8 that?
9 A. That? No, I don't recall anything like
10 that, to tell you the truth.
11 Q. But there was some fill put in that area
12 too?
13 A. In that area there was some fill put in
14 that area.
15 Q. If I go down there in 2003, the area is
16 nice and attractive in the sense it's grassy and open?
17 A. Yes, that should be.
18 Q. And in those days, in the '40s and '50s, I
19 take it that it was kind of a rugged wooded area?
20 A. It was rugged, all that area down there,
21 along Schroeder's Beach, and by the treatment plant
22 here. All this area, that was all wooded area in
23 there. We used to build shacks and stuff back there.
24 Q. Did you have tree houses?
25 A. Tree houses.

13

1 Q. Schroeder's Beach, is that the area where
2 we see the waste water treatment plant here now?
3 A. It would be just to the east of it, over
4 here (indicating).
5 Q. Kind of towards Kreher?
6 A. That's what we called Schroeder's Beach.
7 It was called Kreher. It was Schroeders to us kids.
8 Q. If you were to compare the difference in
9 elevation to the tar pit area today with the way it
10 was when you were a young person in the '40s, is there
11 a difference in the elevation?
12 A. Um, I would say yes, it's probably built
13 up a little higher.
14 Q. Do you have any estimate of how much
15 higher that is?
16 A. I would say by about a couple feet anyway.
17 Q. And the material used was what?
18 A. For fill?
19 Q. Yes.
20 A. Just dirt fill from what I recall anyway.
21 Q. All right. How the tar pit area came to
22 be, do you have any information about that?
23 A. That I don't have any information how it
24 came to be down there.
25 MR. RYBERG: Thank you, sir.

14

1 EXAMINATION BY MR. WEIS:

2 Q. I have just a couple questions for you.
3 The dump area that you have shown on the map, that was
4 basically solid waste, building materials, garbage;
5 that kind of thing?
6 A. Yeah. It was a mixture of building
7 materials and garbage, you know. Brush, old brush
8 that was cut down on somebody's property or something
9 and then they threw it over there. And when we were
10 playing, several times, you know, I remember we used
11 to see trucks back up and throw garbage, or bricks and
12 wood materials and everything down there.
13 Q. You didn't notice any tar over in the dump
14 area? The tar pit was to the east of that?
15 A. That's right. There was no tar whatsoever
16 in the dump area.
17 Q. Did you ever see a railroad tanker car
18 that would be over in the area of the tar pit on a
19 side track to the regular line when you were growing
20 up?
21 A. I don't recall anything like that. It was
22 just pulp cars from the pulp place.
23 Q. I'm sorry?
24 A. Pulp from the pulp hoist. Where the
25 marina is right now used to be the pulp hoist.

15

1 MR. WEIS: Thanks. That's all I
2 have.
3 MR. RYBERG: Nice to meet you, sir.
4 THE WITNESS: You bet. Glad I could
5 help.
6 (Deposition concluded at 11:50 a.m.)
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CERTIFICATION PAGE

STATE OF WISCONSIN)
) ss:
ASHLAND COUNTY)

I, KATHLEEN M. BAY, a Professional
Freelance Reporter, a Notary Public in and for the
State of Wisconsin, do hereby certify that the
foregoing examination of the person stated was taken
before me on the date stated; and

That the same was taken upon oral
interrogatories reported by diskwriter by me,
Freelance Reporter, Route 1, Box 186B, Glidden,
Wisconsin 54527 at the time and place stated, and by
me reduced to writing, and that the foregoing is a
true and correct transcript of said notes to the best
of my ability, and of the whole thereof; and

That before the examination of said
deponent this person was first duly sworn by me to
testify the truth, the whole truth and nothing but the
truth relative to said cause; and

That I am not related in any way to any
party, their attorneys or an employee of any of them,
and that I am not financially interested in this
action.

KATHLEEN M. BAY
Professional Reporter
Notary Public
State of Wisconsin
My Commission expires 03-12-06.

Dated this day of October, 2003,
Glidden, Wisconsin.

AFFIDAVIT OF KEN VENO

STATE OF WISCONSIN)
) ss.
COUNTY OF ASHLAND)

I, KEN VENO the undersigned, duly depose and state as follows:

1. I reside at 517 17th Avenue West, Ashland, Wisconsin 54806. I am a 53-year old lifelong resident of the Ashland area and a current NSP employee at the Bay Front Plant.

2. I attended grade school and junior high school at the St. Agnes School. The St. Agnes School was located on top of the bluff adjacent to the west end of the Kreher Park site (the "Site").

3. In the late 1940s and early 1950s, I recall playing on the piles of waste disposed of on the west end of the Site in the same area now used to park boat trailers. I specifically recall a wide variety of demolition debris being disposed of including roofing materials and cinders. The waste piles were rat infested and I remember chasing the rats.

4. There was a tar pit east of this dump area. It was north of the railroad tracks and south of the wastewater treatment plant. The area was wooded. I do not recall any activity in the tar pit area. *I have heard from my father and others K.V. that the tar pit was used to dip lumber.*

5. On the date of the affidavit I visited the Site with representatives of Northern States Power Company. I marked the location of the tar pit on the attached aerial photo with a red marker and placed my initials next to the mark.

6. I have received no payment or benefit of any kind from any party for making this affidavit.

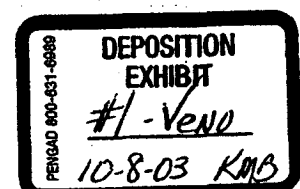
Dated this 21 day of September, 1995.

Ken Veno
Ken Veno

Subscribed and sworn to before me
this 21st day of September, 1995.

[Signature]
Notary Public, State of Wisconsin
My commission is permanent.

NSPW100069





NSPW100070

AFFIDAVIT OF MARY KABASA

STATE OF WISCONSIN)
) ss.
COUNTY OF ASHLAND)

I, MARY KABASA, the undersigned, duly depose and state as follows:

1. I currently reside at Court Manor Nursing Home, 911 3rd Street West, Ashland, Wisconsin 54806. I grew up on Stuntz Avenue, four blocks from the Kreher Park site (the "Site"). I am a long time resident of the Site area. In 1942, I moved to 215 Prentice Avenue which is located on the ridge overlooking the Site.

2. I recall the John Schroeder Lumber Company operations at the Site, prior to moving to Prentice Avenue. I recall railroad ties on the sawmill property which appeared to be already blackened. I also recall an area of the sawmill where wooden shingles were piled, just west of the artesian well.

3. After moving to Prentice Avenue in 1942, I recall an area of coal tar on the site. My dogs would run through this area and come out covered in tar. My sons also played in this area and would sometimes come home with tar all over them.

4. I recall that this coal tar area was located one block west of the area where shingles were piled during the sawmill operation. The coal tar was not easily visible from a distance because at this time, in the 1940s, weeds, brush and trees were growing in this area. I recall a railroad spur off the main line which ran just east of the coal tar area. I also recall that rail cars ~~dumped coal tar~~ ^{drained oil} in the coal tar area.

5. ~~On the date of this affidavit I visited the Site with representatives of Northern States Power Company. I marked the location of the coal tar area on the attached aerial photo with a red marker and placed my initials next to the mark.~~ m. k.

6. I have received no payment or benefit of any kind from any party for making this affidavit

Mary Kabasa
Mary Kabasa

Subscribed and sworn to before me
this 21st day of September, 1995.

[Signature]
Notary Public, State of Wisconsin
My commission is permanent.

AFFIDAVIT OF JOHN WALTERS

STATE OF WISCONSIN)
) ss.
COUNTY OF ASHLAND)

I, JOHN WALTERS, the undersigned, duly depose and state as follows:

1. I reside at 309 Lake Shore Drive East, Ashland, Wisconsin 54806. I have lived in Ashland since 1946.

2. I formerly worked for Consolidated Paper Company on the pulp hoist dock until 1973.

3. I have conducted extensive research of the lumber and wood pulp industry in Northern Wisconsin.

4. I recall a pond of coal tar, or tar-like substance, located south of the former wastewater treatment plant. Over the years, ^{I believe so} railroad cars would dump tar waste and rolls of tar in that area. I recall that oftentimes railroad cars which arrived at the wood pulp dock to pick up loads of pulp wood, would empty debris from previous trips right along the track to make room for their new load. ^{and clean out the railroad cars} ^{so}

5. I have received no payment or benefit of any kind from any party for making this affidavit

Dated this 20th day of September, 1995.

John Walters
John Walters

Subscribed and sworn to before me
this 20th day of September, 1995.

John Q. Wil
Notary Public, State of Wisconsin
My commission is permanent.

6. On numerous occasions I recall seeing an oil blackened ^{so} tanker car sitting on the tracks just below Third Avenue near the fenced sheep area

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STATE OF WISCONSIN)
)
COUNTY OF ASHLAND) ss.

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2. I formerly worked for Consolidated Paper Company on the pulp hoist dock until 1973.

3. I have conducted extensive research of the lumber and wood pulp industry in Northern Wisconsin.

4. I recall a pond of coal tar, or tar-like substance, located south of the former wastewater treatment plant. The pond was approximately 30 feet wide and ankle to knee deep. In approximately the late 1940s, the area in which the pond was ~~located~~ *was surrounded* *covered* by brush and trees. The coal tar was located approximately 50 yards west of the existing artesian well, which is located southeast of the wastewater treatment plant.

5. ~~On the date of this affidavit, I visited the Site with representatives of Northern States Power Company.~~ I marked the location of the coal tar pond on the attached aerial photo with a red marker and placed my initials next to the mark. *JW*

6. ~~I recall that the City of Ashland used the Site as a dump. City residents were allowed to dump glass and household trash in an area just southeast of the former Consolidated Paper dock.~~ *I also marked the dump area on the attached photo.* *JW*

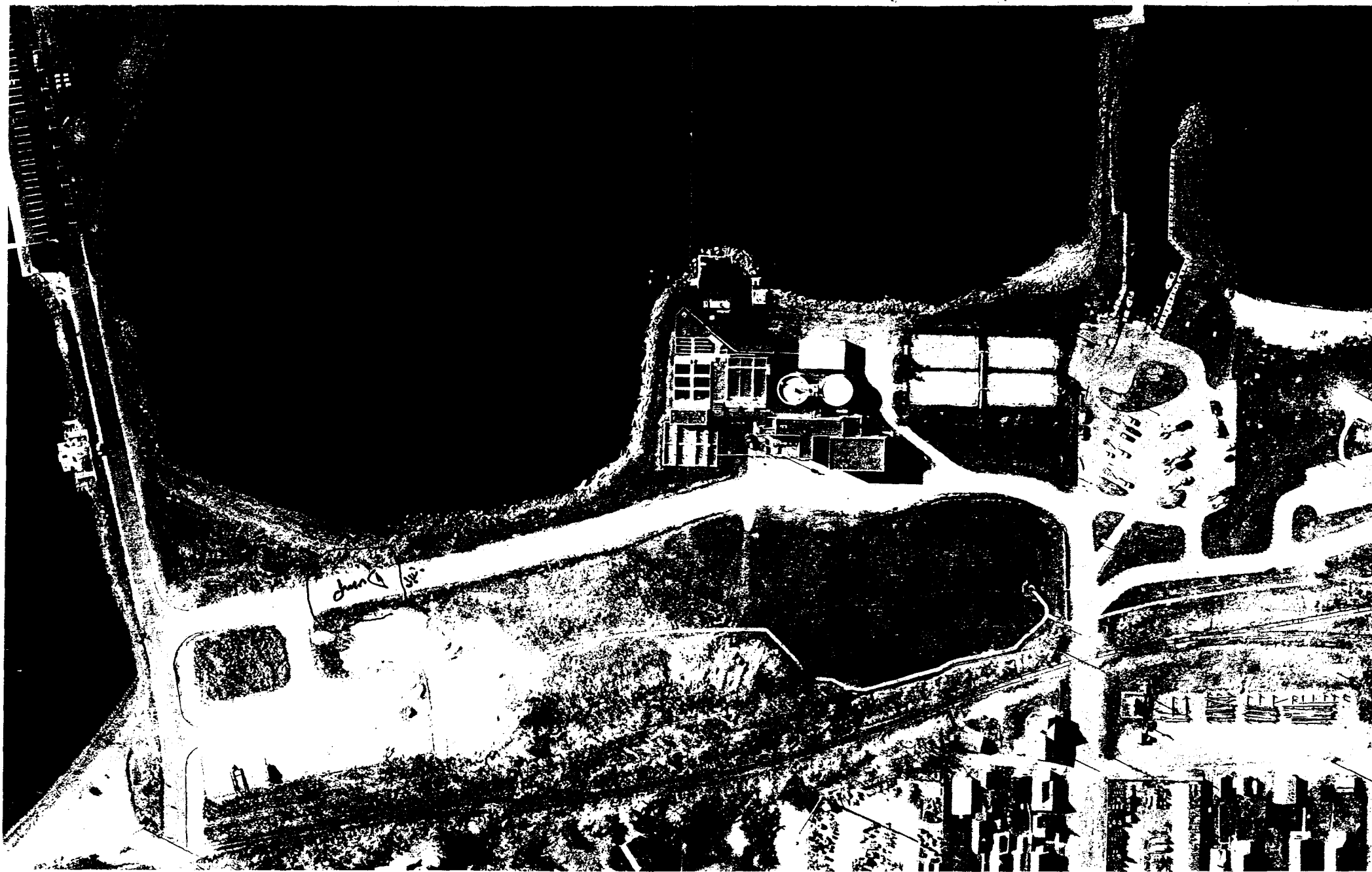
7. I have received no payment or benefit of any kind from any party for making this affidavit

Dated this 20th day of September, 1995.

John Walters
John Walters

Subscribed and sworn to before me
this 20th day of September, 1995.

Jan V. Wil
Notary Public, State of Wisconsin
My commission is permanent.



AFFIDAVIT OF JOHN WALTERS

STATE OF WISCONSIN)
) ss.
COUNTY OF ASHLAND)

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3. I have conducted extensive research of the lumber and wood pulp industry in Northern Wisconsin.

4. I recall a pond of coal tar, or tar-like substance, located south of the former wastewater treatment plant. Over the years, ^{I believe JW} railroad cars would dump tar waste and rolls of tar in that area. I recall that oftentimes railroad cars which arrived at the wood pulp dock to pick up loads of pulp wood, would empty debris from previous trips, ^{and clean out the railroad cars JW} right along the track to make room for their new load.

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Dated this 20th day of September, 1995.

John Walters
John Walters

Subscribed and sworn to before me
this 20th day of September, 1995.

John G. Wil
Notary Public, State of Wisconsin
My commission is permanent.

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)
COUNTY OF ASHLAND) ss.

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6. ~~I recall that the City of Ashland used the Site as a dump. City residents were allowed to dump glass and household trash in an area just southeast of the former Consolidated Paper dock.~~ *I also marked the dump area on the attached photo.* *JW*

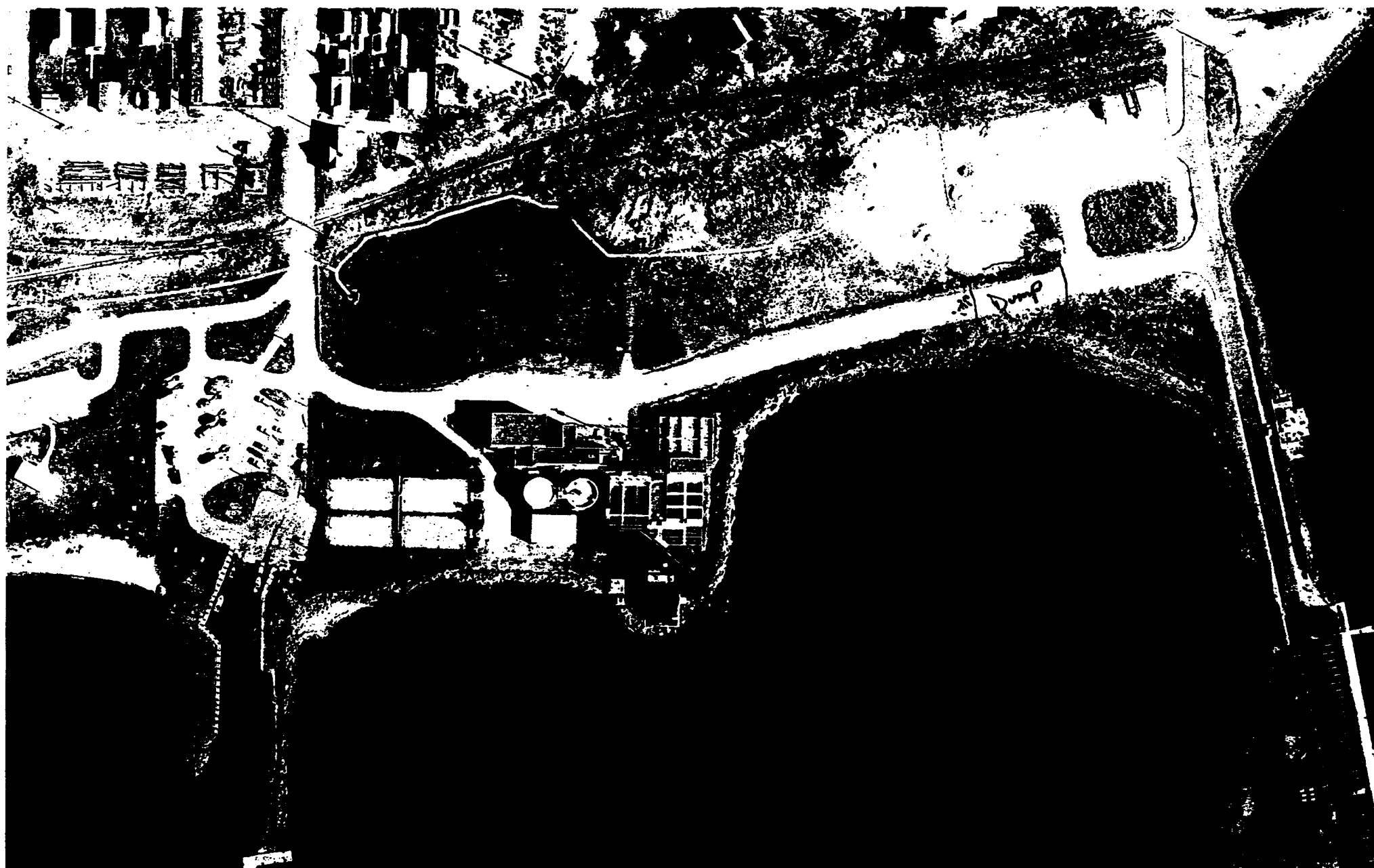
7. I have received no payment or benefit of any kind from any party for making this affidavit

Dated this 20th day of September, 1995.

John Walters
John Walters

Subscribed and sworn to before me
this 20th day of September, 1995.

John C. Wil
Notary Public, State of Wisconsin
My commission is permanent.





AFFIDAVIT OF EUGENE BOYLE

STATE OF WISCONSIN)
) ss.
COUNTY OF ASHLAND)

I, EUGENE BOYLE, the undersigned, duly depose and state as follows:

1. I reside at 117 16th Avenue East, Ashland, Wisconsin 54806. I am a 68-year old lifelong Ashland resident and a former 38-year employee of the Chicago and Northwestern Railroad. I also lived on St. Claire Street in the vicinity of the gas plant site and Kreher Park during the mid-1940s.

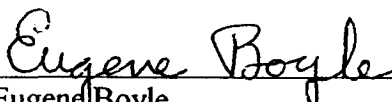
2. From approximately 1937-1945, my brother and I, along with other children, used to play on the property which had been the John Schroeder Lumber Company and what is now known as Kreher Park (the "Site").

3. In 1941 or 1942, my brother, James Boyle (deceased), fell into a tar pit which was located south of the wastewater treatment plant and north of the railroad tracks and about 3-4 feet deep. My father had to use kerosene to clean the tar off of my brother.

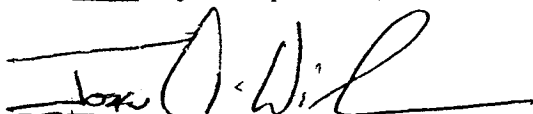
4. ~~On the date of this affidavit I visited the Site with representatives of Northern States Power Company.~~ I marked the location of the tar pit on the attached aerial photo with a red marker and placed my initials next to the mark.

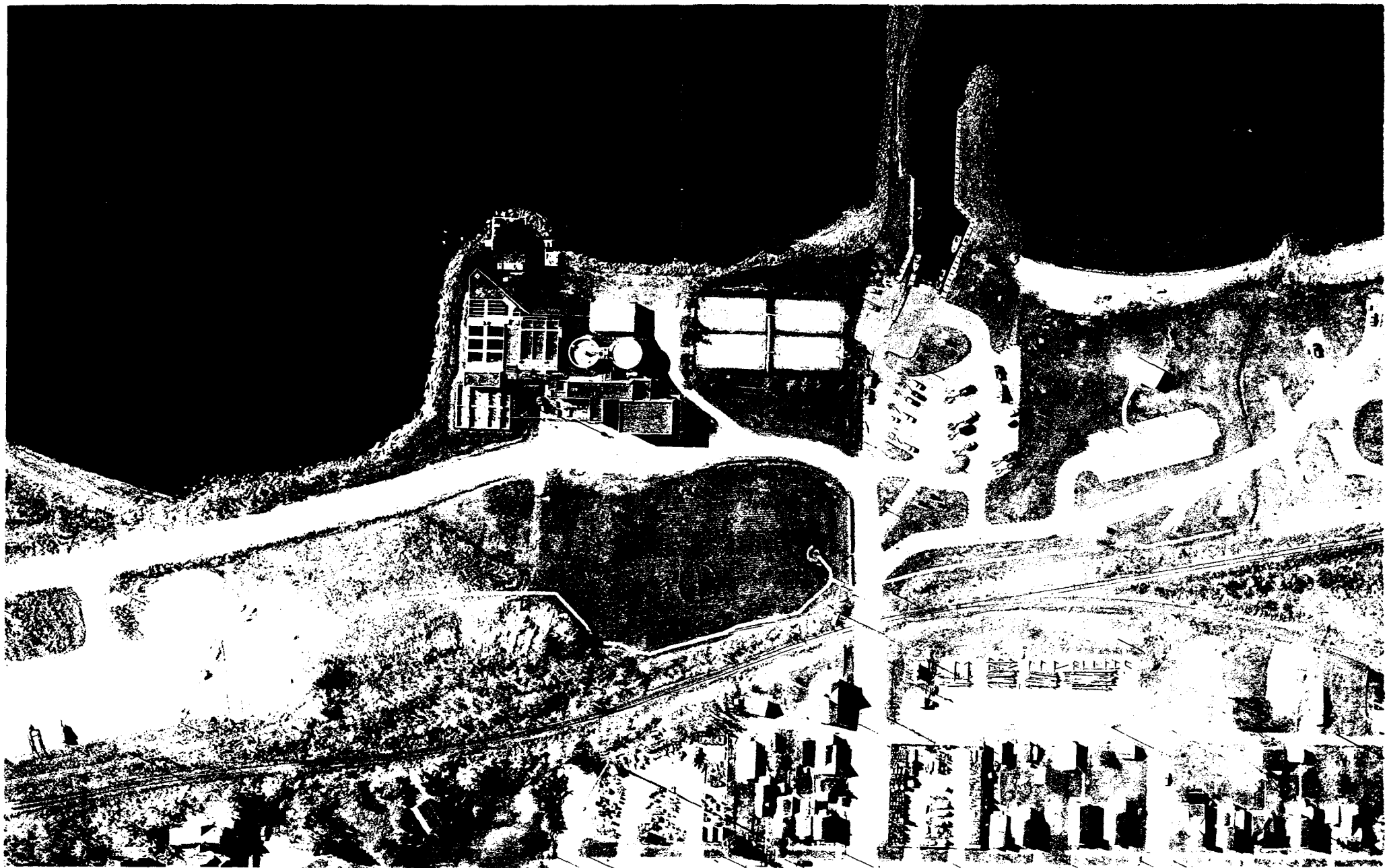
5. I have received no payment or benefit of any kind from any party for making this affidavit.

Dated this 20th day of September, 1995.


Eugene Boyle

Subscribed and sworn to before me
this 20th day of September, 1995.


Notary Public, State of Wisconsin
My commission is permanent



「

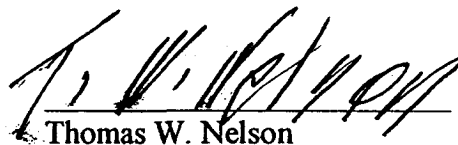
AFFIDAVIT OF THOMAS W. NELSON

STATE OF WISCONSIN)
)
COUNTY OF ASHLAND) ss.

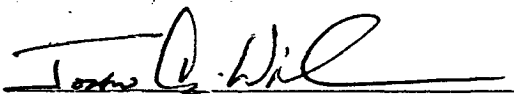
I, THOMAS W. NELSON, the undersigned, duly depose and state as follows:

1. I reside at Fire No. S-710, Sandborn Avenue, Ashland, Wisconsin 54806.
2. I worked as a surveyor for Lake Superior District Power from 1938 to 1957, before starting my own surveying company.
3. I recall that on numerous occasions the railroad dumped oil, coal, and other materials all over the shoreline area where their tracks ran and, specifically, the tracks adjacent to ~~Kroher Park~~.
4. I recall that the railroad ^{for Schroeder} had their own creosote pit for treating railroad ties on the Schroeder Lumber Company property. *I marked the area where the pit was located on the attached photo and put my initials by the*
5. I have received no payment or benefit of any kind from any party for *mark* making this affidavit.

Dated this 20th day of September, 1995.


Thomas W. Nelson

Subscribed and sworn to before me
this 21st day of September, 1995.


Notary Public, State of Wisconsin
My commission is permanent



M

AFFIDAVIT OF PETE CARRINGTON

STATE OF WISCONSIN)
)
COUNTY OF ASHLAND) ss.

I, PETE CARRINGTON, the undersigned, duly depose and state as follows:

1. I reside at 1121 5th Avenue East, Ashland, Wisconsin 54806. ~~I am currently employed at Lakewind Engineering, Inc., formerly Wilhelm Engineering Company, 707 Main Street, West Ashland, Wisconsin 54806.~~ *I was formerly employed P.C. by Wilhelm Engineering.*
2. Wilhelm Engineering Company was contracted by the City of Ashland for the design and planning of the Marina Project, part of which was the extension of Ellis Avenue north to the waterfront.
3. I recall that during the excavation for the road extension in *approximately 1984 or 1985* a large area of coal tar was discovered. The area was located just north of the railroad tracks, in the path of the proposed road extension. The area was covered in water a few inches deep and weeds were growing in it. Coal tar was encountered in the first bucket full of the backhoe. Further excavation revealed a large pool of the black colored material. *P.C.*
4. At that point the crew suspended activities and contacted the City. A few hours later City dump trucks arrived and began placing the excavation material in the trucks with a backhoe. It took the rest of the day and most of the next morning to remove all of the coal tar and surrounding earth material. I recall that the material was hauled by the City dump trucks to the grassy area in front of the City Wastewater Treatment Plant and dumped in that area. At one point, I entered the excavation area wearing rubber waders and stepped over knee deep in the coal tar.
5. On the date of this affidavit I visited Kreher Park with representatives of Northern States Power Company. I marked the location where the coal tar was excavated by the City on the attached aerial photo in red marker and placed my initials next to the mark. I also marked the location where the City dumped the excavated coal tar on the photo in blue marker and placed my initials next to that mark.

6. I have received no payment or benefit of any kind from any party for making this affidavit.

Dated this 20 day of September, 1995.

Pete Carrington
Pete Carrington

Subscribed and sworn to before me
this 20 day of September, 1995.

James J. Wilk
Notary Public, State of Wisconsin
My commission is permanent.

7. The excavation area that I marked on the map was an area bounded on the east and west 20 feet on either side of Ellis Avenue. On the north and south the area started approximately 15 feet north of the tracks and continued to a point approximately 50 feet north of the track. P.C.

DEC 04 1995

LEGAL DEPARTMENT MEMORANDUM

NSP

DATE: November 30, 1995 November 30, 1995

TO: Ashland File (Pete Carrington folder)

FROM: John D. Wilson *JW*

On 11/29/95, Pete Carrington called to indicate an inaccuracy in paragraph 4 of his affidavit. He stated that there was no delay in City dump trucks getting to the site as they were there right away. This was part of City's contribution to the project. I indicated to Pete that this was not critical to our use of the affidavit, but I would note it in the file.

cc: Jim Musso
~~Dave~~ Crass



1
2 STATE OF WISCONSIN CIRCUIT COURT ASHLAND COUNTY
3 GEORGE F. GROSJEAN and
4 DIANE L. GROSJEAN,
5 Plaintiffs, Case No. 02-CV-150
6 Deposition of:
7 PETER CARRINGTON
8 vs
9
10 NORTHERN STATES POWER COMPANY,
11 a Wisconsin Corporation, d/b/a
12 XCEL ENERGY SERVICES, INC., and
13 AEGIS SECURITY INSURANCE COMPANY,
14 Defendants,
15 and
16 COMPCARE HEALTH SERVICES INSURANCE
17 CORPORATION, ATRIUM HEALTH PLAN, INC.
18 Nominal Defendants.
19
20 Deposition examination of PETER CARRINGTON,
21 taken under and pursuant to Section 804 of the
22 Wisconsin Statutes and the acts amendatory thereof and
23 supplementary thereto, pursuant to notice, before
24 Kathleen M. Bay, Freelance Court Reporter and Notary
25 Public in and for the State of Wisconsin, at the
Ashland County Courthouse, Room 204, 201 West Main
Street, Ashland, Wisconsin, on the 8th day of October,
2003, commencing at 2:30 p.m. and concluding at
2:42 p.m.

26 APPEARING ON BEHALF OF THE PLAINTIFFS:
27 Mr. D.J. Weis
28 Attorney at Law
29 26 South Brown Street
30 Rhinelander, WI 54501
31
32 APPEARING ON BEHALF OF THE DEFENDANTS:
33 Mr. J. Drew Ryberg
34 Kelly & Ryberg, S.C.
35 1620 Ohm Avenue
36 P.O. Box 479
37 Eau Claire, WI 54702-0479
38
39 BEBA REPORTING GLIDDEN, WI 715-264-2113

1		
2	I N D E X P A G E	
3		PAGE
4		
5	EXAMINATION BY MR. RYBERG:	3,
6	EXAMINATION BY MR. WEIS:	17,
7	RE-EXAMINATION BY MR. RYBERG:	18,
8		
9		
10		
11		
12	E X H I B I T S	
13		PAGE MARKED
14	Exhibit Number 1	3
15		
16	(The above original exhibit was included with the	
17	original transcript and copies thereof were included	
18	with each transcript copy.)	
19		
20		
21		
22		
23		
24		
25		

1 P R O C E E D I N G S
2 PETER CARRINGTON, after having been
3 first duly sworn, testified as follows:
4 (Exhibit Number 1 marked for
5 identification.)
6 EXAMINATION BY MR. RYBERG:
7 Q. Would you state your full name and
8 address?
9 A. William Peter Carrington, 1121 Fifth
10 Avenue East here in the City.
11 Q. Where are you employed?
12 A. Roffer's Construction.
13 Q. How do you spell that?
14 A. R-O-F-F-E-R-S.
15 Q. How long have you worked for Roffer's
16 Construction?
17 A. Well, maybe 19, 20 years.
18 Q. What do you do for Roffer's?
19 A. Well, I'm an operating engineer.
20 Q. At one time were you employed by Wilhelm
21 Engineering?
22 A. Yes.
23 Q. When was that?
24 A. Before I worked for Roffer's. I'm not too
25 good on the dates.

1 Q. Were you born and raised in Ashland?
2 A. Nope.
3 Q. Where were you born and raised?
4 A. Marshfield.
5 Q. In regard to a project that Wilhelm
6 undertook for the City of Ashland, do you recall being
7 involved in that, Mr. Carrington?
8 A. Lots of projects for the City.
9 Q. And how many years did you work for
10 Wilhelm?
11 A. I think it was around maybe seven.
12 Q. Your position there was --
13 A. Civil Engineer Technician, which is just a
14 rod man on the survey crew is basically what it comes
15 down to.
16 Q. And that dealt with the extension of Ellis
17 Avenue?
18 A. Yes.
19 Q. Did Wilhelm have the design contract for
20 that?
21 A. I'm sure they did, yeah. That was hooked
22 up with the marina project which is where I mostly
23 worked.
24 Q. And the marina project, did that include
25 the development of the Chequamegon Hotel?

1 A. Yes.

2 Q. Who was involved in all of the building

3 construction aspect of that, if you can remember?

4 A. I don't know who built the Hotel. I

5 remember James Peterson dug down the hill on the Ellis

6 Avenue extension.

7 Q. What was the role of Wilhelm with regard

8 to the Ellis Avenue extension, project engineer?

9 A. He was a project engineer, yeah.

10 Q. This was in the course of your tenure at

11 Wilhelm also?

12 A. Yes.

13 Q. Do you remember doing any digging as you

14 got to the area down below the ravine and to the north

15 as you got near to the bay on Ellis Avenue?

16 A. Yeah. There by the tracks?

17 Q. Yes.

18 A. Right.

19 Q. I want to show you Exhibit 1, is that a

20 copy of your affidavit, Mr. Carrington?

21 A. Yeah, I remember seeing this before.

22 Q. And the date of this is September 20,

23 1995?

24 A. Well, yeah.

25 Q. And is that accurate?

5

1 A. As far as I know. I have no reason to --

2 Q. With regard to the diagram attached, Mr.

3 Carrington, there are a couple of notes on here made

4 by you. It says "PC" here on the left and then it

5 says "excavation"?

6 A. Um-hum.

7 Q. Did I read that right?

8 A. Right.

9 Q. Is that Ellis?

10 A. Yes, that's the Ellis Avenue extension,

11 right.

12 Q. Where did that come from as I look at this

13 map?

14 A. Where did the map come from?

15 Q. No, where did the start of the

16 reconstruction of Ellis begin?

17 A. Well, you can almost see the -- well, the

18 dark light and dark at the end of the shadow from the

19 Hotel was just about the beginning of the new road and

20 it went down to what used to be called the Pulp Hoist

21 Road, this road here (indicating), which is north of

22 -- south of the sewage treatment plant.

23 Q. All right. So for our record it's on what

24 is the western part, the north being at the top of

25 this map, is that correct?

6

1 A. Yes.

2 Q. And then it proceeds almost due north and

3 goes to the east along that road that's immediately

4 south of the Waste Water Treatment, correct?

5 A. That road was in before. It just goes

6 north from -- well, for about a block and a half, two

7 blocks there.

8 Q. North of that road that was there, the

9 Pulp Hoist Road?

10 A. No. The Pulp Hoist Road -- I think what I

11 remember is this road right here (indicating). The

12 east/west road that goes in front of the sewage

13 treatment plant because there's no way down to what

14 used to be the pulp hoist dock except for off Kosher

15 Park down here.

16 Q. And the extension of Ellis to the north of

17 that pulp hoist drive is what we can see on the

18 northwest part of this map, is that correct?

19 A. Right.

20 Q. And how many blocks does that run from the

21 intersection of pulp hoist?

22 A. North?

23 Q. Yes.

24 A. Well, you know, it goes to the end of the

25 marina maybe two and a half, three blocks.

7

1 Q. Were you involved in doing any of the

2 grading or excavating in this piece that we see on

3 Ellis?

4 A. Yeah, we set grade for it.

5 Q. Did you observe anything about the soil or

6 the materials when you were in --

7 A. I remember there was something at the

8 bottom of the hill that smelled awful. Awful.

9 Q. Describe that smell for us.

10 A. It was almost a petroleum, thick, heavy.

11 I don't know how to describe it.

12 Q. The smell was a heavy one?

13 A. The smell was a heavy one, yeah, right.

14 When they got in it, they knew right away there was

15 something other than dirt.

16 Q. When you say at the base of the hill, is

17 that something we can see kind of at the start of the

18 reconstruction of Ellis in this diagram or map?

19 A. Well, no, it's down by the railroad tracks

20 there.

21 Q. So further to the north?

22 A. Right.

23 Q. Were you involved physically in any of the

24 excavation?

25 A. Well, you know, I didn't go in there and

8

1 shovel any of it, but I was down in there taking
2 shots, you know, grade elevation shots.
3 Q. You described the smell before; can you
4 describe the consistency of what you saw?
5 A. I remember I put my rubber boots on and it
6 was thick, slimy. I don't even know how to describe
7 it.
8 Q. Not liquid as in water or kind of a
9 heavier substance?
10 A. It wasn't flowing, but it was on the verge
11 of flowing.
12 Q. A little bit heavy in character and dark
13 in color?
14 A. Right. Real dark in color.
15 Q. And it smelled?
16 A. And it stunk.
17 Q. Smelled of petroleum product?
18 A. Right.
19 Q. Did you ask anybody what that was?
20 A. I don't remember how it came to be that I
21 knew that was coal tar. If they were talking about it
22 and I overheard it, or if I asked, or I don't
23 remember.
24 Q. But somehow you gained that impression?
25 A. Right.

9

1 Q. And then you have described kind of an
2 area there that looks like -- is that a diagram by
3 you?
4 A. I think I drew that, but I'm not real sure
5 who did. The more I think about it, that might have
6 been even closer to the tracks where there is like a
7 lower area there; not really a ditch, but...
8 Q. And by "the tracks", you mean this area
9 across here (indicating)?
10 A. Here's the railroad tracks (indicating).
11 That's all railroad tracks, and I think -- I don't
12 think they dumped it up there in the lawn, which is
13 what this is now, grass. I think they dumped it back
14 here (indicating).
15 Q. Close to the track?
16 A. Closer to the tracks.
17 Q. This, what appears to be like a trapezoid
18 or some enclosure, is something you drew, is that
19 right?
20 A. Right.
21 Q. And what you intend to mean, that was
22 probably a little bit to the south of that, or nearer
23 to the track?
24 A. Right.
25 Q. How much material was put in that area if

11

1 Q. Had you ever seen coal tar before?
2 A. Yeah, I think I have at that, a few times.
3 I used to travel a lot with my dad in the summer.
4 Q. What does your dad do?
5 A. He was a civil engineer.
6 Q. And since -- have you had contact since
7 working with Wilhelm with coal tar?
8 A. No, I don't think so.
9 Q. And what was done about that material when
10 you encountered that in working on the extension?
11 A. Well, it seems to me the contractor didn't
12 want to deal with it. I don't know what they were
13 doing with the clay, but they didn't want that other
14 stuff with the clay so they told the City that they
15 had to deal with it and the City, I believe the
16 contractor loaded the City dump trucks and they
17 trucked it around and dumped it, it would be south of
18 the sewage treatment plant.
19 Q. Is that the other area you have marked on
20 this map?
21 A. Yes.
22 Q. And have you written "dump" on that?
23 A. Right.
24 Q. With your initials "PC" below that?
25 A. That's right.

10

1 you remember?
2 A. I don't remember.
3 Q. And the year of this is, is this the mid
4 '80s or something, do you remember?
5 A. Yeah, mid '80s sounds about right. Might
6 have been maybe '82 or something. Whenever they built
7 that marina. I don't remember.
8 Q. Do you remember how many trucks were used
9 to haul this material from the excavation that you
10 have shown on the map to the dump area?
11 A. I want to say two, but I'm not sure if
12 there were two City trucks or not.
13 Q. You were present when that happened?
14 A. I remember them City trucks backing in
15 there, yeah.
16 Q. Did they get most of the material that
17 contained this black gooey substance out of there?
18 A. I don't think I was around when they
19 finished digging, so I don't know.
20 Q. Who was the contractor that wanted to have
21 that out of there?
22 A. James Peterson and Sons out of Medford. I
23 think out of Medford.
24 Q. Is it your understanding that this
25 material was done by the City? In other words, moved

12

1 out of there by the City?

2 A. Yeah, right.

3 Q. Did you talk to anybody about what the use

4 of the material such as coal tar had been made in

5 years before you were there?

6 A. I don't remember. I don't remember.

7 Q. What was put into the site that was freed

8 of this black material?

9 A. Hum? I would assume they put clay back in

10 there, but I'm not sure.

11 Q. Was there any fill that was located over

12 in the Kreher Park area that you recall?

13 A. No, I don't remember anything over there.

14 Q. Mr. Carrington, do you ever remember any

15 pond or pooling of materials immediately to the south

16 of the Treatment Plant? In other words, liquid

17 material dark in color above the soil?

18 A. Well, I remember I think we were doing

19 some cross-section work in this area north of the

20 tracks and that would be east of the Ellis Avenue

21 extension and I remember that stuff, there was

22 something ponding up. I don't remember it to be deep

23 or nothing, just black, oily, stinky stuff amongst the

24 cattails.

25 Q. And is that located in the area that you

13

1 Q. This material was more?

2 A. Yeah.

3 Q. Is there a seep area that's located down

4 here that you recall?

5 A. Well, that's kind of the area I am talking

6 about was north of them tracks. I think they got a

7 parking lot built in here now for boat storage. Seems

8 to me it would have been maybe south of that parking

9 lot north of the tracks and it's like a big giant

10 swale all the way through there. Starts from this

11 Kosher Park Road and eventually empties into the bay

12 over here.

13 Q. And the area now that you have described

14 is a bit to the south of the Waste Water Treatment

15 Plant and west of the area depicted as dump by you in

16 this exhibit?

17 A. Right. Even maybe straight west of that

18 area I got called the dump.

19 Q. And maybe a little bit southwest of the

20 Waste Water Treatment Plant?

21 A. Right, right.

22 Q. Ever discuss with others Schroeder Lumber

23 being in this area before?

24 A. You know, I remember hearing some talk, or

25 maybe it was an article in the paper. I don't

15

1 have marked and above the dump in your map attached to

2 Exhibit 1?

3 A. Between the area I marked the dump and

4 excavation, yeah.

5 Q. All right. And what were you digging

6 there for?

7 A. I don't remember what we were doing in

8 there. We were doing cross-sections and I can't

9 remember why.

10 Q. How big an area were you digging?

11 A. I don't remember that either.

12 Q. And cross-sections, that's an engineering

13 term?

14 A. It's a land surveying term. It's to get

15 it where you can -- a contour map. We were making a

16 contour map.

17 Q. How extensive that was in the area between

18 Ellis and the dump, do you know?

19 A. No, I don't.

20 Q. Was it like the material you saw in the

21 excavation site?

22 A. Right.

23 Q. Same?

24 A. Pretty much. Maybe even a bit more

25 liquidy.

14

1 remember. I remember the name Schroeder Lumber, but I

2 don't remember from where.

3 Q. How many years had you -- or have you

4 lived in Ashland, sir?

5 A. Well, I've been working in town around

6 Ashland for like 25, 27 years, and for the first

7 couple years I was living in Ontonagon. I have been

8 in Ashland maybe 22 years, 23. Been around a while.

9 Q. I'm looking at paragraph three of your

10 affidavit, Mr. Carrington, and you have that before

11 you. It says that "further excavation revealed a

12 large pool of a black colored material", and by that

13 you mean the clam was exposing that, or was it that

14 this spread for a long distance that you could see

15 beneath the soil?

16 A. Well, it looked like it spread for a long

17 distance underneath the soil like it was.

18 Q. Do you know the origin of that?

19 A. No.

20 Q. And paragraph seven of the affidavit

21 you're asked to describe more specifically the

22 excavation area and you have done that by writing that

23 in, correct?

24 A. Yes. Somebody else wrote it. That's not

25 my writing, but...

16

1 Q. That was your initials?
2 A. Yeah, right. Yeah.
3 Q. Does that describe pretty well the area
4 that you think had this coal tar?
5 A. Yeah, from what I can remember.
6 Q. And except for the work that you were
7 doing with the attempting to get some scale in between
8 Ellis and the dump area, you don't recall other
9 pockets or areas, do you, where there was coal tar?
10 A. Well, it seems to me, I remember some
11 places along in here (indicating), but I can't really
12 remember any detail about them.
13 Q. In terms of NSP and the coal tar, do you
14 know if there was any association of NSP to the
15 presence of this coal tar?
16 A. I have no clue.
17 MR. RYBERG: Thank you, sir.
18
19 EXAMINATION BY MR. WEIS:
20 Q. Just a couple questions if I could. This
21 dump area, I assume you were never over in that area
22 running grade?
23 A. No.
24 Q. So you have no idea whether or not there
25 might have been a big area of coal tar in that area

17

1 before they went over and dumped this stuff there?
2 A. That's right. I have no idea.
3 Q. Okay. How far east did you get along the
4 tracks when you were doing this other work that
5 related to --
6 A. I don't remember how far up here we went.
7 Someplace up in here (indicating), but like I said, I
8 don't remember. I don't even know why we were in here
9 doing it. I don't know.
10 MR. WEIS: Thanks. That's all I
11 have.
12
13 RE-EXAMINATION BY MR. RYBERG:
14 Q. I just have a question about the amount of
15 material. You said it was two dump trucks; are they
16 filled with this dark material?
17 A. Yeah. They were loaded trucks, so it was
18 at least two loads and it seems to me they were there
19 for awhile. They made more than one round.
20 Q. And then they're placed on the soil which
21 you can see in this map?
22 A. Right.
23 Q. Any estimate of the size of that area of
24 the dump?
25 A. Well, I'm going to say no.

18

1 Q. Did that get absorbed in the soil then, do
2 you know?
3 A. I don't know. It seems to me it got
4 pushed off, somehow leveled off. I don't know what
5 happened to it.
6 Q. So your recollection would be it was
7 dumped in one spot and spread around the area?
8 A. Yeah.
9 Q. Whether it got absorbed, as to what
10 extent, have you any idea about that?
11 A. I have no idea.
12 MR. RYBERG: Thanks.
13 (Deposition concluded at 2:42 p.m.)
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1
2 CERTIFICATION PAGE
3 STATE OF WISCONSIN)
4 ASHLAND COUNTY) ss:
5 I, KATHLEEN M. BAY, a Professional
6 Freelance Reporter, a Notary Public in and for the
7 State of Wisconsin, do hereby certify that the
8 foregoing examination of the person stated was taken
9 before me on the date stated; and
10 That the same was taken upon oral
11 interrogatories reported by diskwriter by me,
12 Freelance Reporter, Route 1, Box 186B, Glidden,
13 Wisconsin 54527 at the time and place stated, and by
14 me reduced to writing, and that the foregoing is a
15 true and correct transcript of said notes to the best
16 of my ability, and of the whole thereof; and
17 That before the examination of said
18 deponent this person was first duly sworn by me to
19 testify the truth, the whole truth and nothing but the
20 truth relative to said cause; and
21 That I am not related in any way to any
22 party, their attorneys or an employee of any of them,
23 and that I am not financially interested in this
24 action.
25
KATHLEEN M. BAY
Professional Reporter
Notary Public
State of Wisconsin
My Commission expires 03-12-06.
Dated this day of October, 2003,
Glidden, Wisconsin.

20

AFFIDAVIT OF PETE CARRINGTON

STATE OF WISCONSIN)
) ss.
COUNTY OF ASHLAND)

I, PETE CARRINGTON, the undersigned, duly depose and state as follows:

1. I reside at 1121 5th Avenue East, Ashland, Wisconsin 54806. I am currently employed at Lakewind Engineering, Inc., formerly Wilhelm Engineering Company, 707 Main Street, West Ashland, Wisconsin 54806. I was formerly employed P.C. by Wilhelm Engineering.

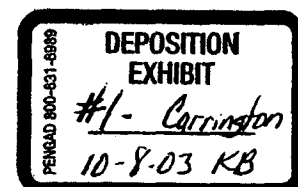
2. Wilhelm Engineering Company was contracted by the City of Ashland for the design and planning of the Marina Project, part of which was the extension of Ellis Avenue north to the waterfront.

3. I recall that during the excavation for the road extension in approximately 1984 or 1985 a large area of coal tar was discovered. The area was located just north of the railroad tracks, in the path of the proposed road extension. The area was covered in water a few inches deep and weeds were growing in it. Coal tar was encountered in the first bucket full of the backhoe. Further excavation revealed a large pool of the black colored material. P.C.

4. At that point the crew suspended activities and contacted the City. A few hours later City dump trucks arrived and began placing the excavation material in the trucks with a backhoe. It took the rest of the day and most of the next morning to remove all of the coal tar and surrounding earth material. I recall that the material was hauled by the City dump trucks to the grassy area in front of the City Wastewater Treatment Plant and dumped in that area. At one point, I entered the excavation area wearing rubber waders and stepped over knee deep in the coal tar.

5. On the date of this affidavit I visited Kreher Park with representatives of Northern States Power Company. I marked the location where the coal tar was excavated by the City on the attached aerial photo in red marker and placed my initials next to the mark. I also marked the location where the City dumped the excavated coal tar on the photo in blue marker and placed my initials next to that mark.

NSPW100160



6. I have received no payment or benefit of any kind from any party for making this affidavit.

Dated this 20 day of September, 1995.

Pete Carrington
Pete Carrington

Subscribed and sworn to before me
this 20 day of September, 1995.

James G. Wil

Notary Public, State of Wisconsin
My commission is permanent.

7. The excavation area that I marked on the map was an area bounded on the east and west 20 feet on either side of Ellis Avenue. On the north and south the area started approximately 15 feet north of the tracks and continued to a point approximately 50 feet north of the track. P.C.



NSPW100162

0001

1 STATE OF MINNESOTA: DISTRICT COURT: HENNEPIN COUNTY
2 FOURTH JUDICIAL DISTRICT

3
4 ST. PAUL MERCURY INSURANCE COMPANY
and ST. PAUL FIRE and MARINE
5 INSURANCE COMPANY,

6 Plaintiffs,

7 -vs- CASE NO. CT 03-017809

8 NORTHERN STATES POWER COMPANY,
d/b/a XCEL ENERGY, INC., FIDELITY and
9 CASUALTY COMPANY OF NEW YORK,
and THE HOME INSURANCE COMPANY,

10 Defendants.

11 and

12 FIDELITY and CASUALTY COMPANY
13 OF NEW YORK,

14 Third-Party plaintiff,

15 -vs-

16 ADMIRAL INSURANCE COMPANY, et al.,

17 Third-Party Defendants.

18
19 DEPOSITION OF WILLIAM P. CARRINGTON,
20 was taken at the instance of the Plaintiffs, under
21 and pursuant to the provisions of the applicable
22 statutes, and the acts amendatory thereof and
23 supplementary thereto, before me, KATHY A. HALMA,
24 Registered Professional Reporter and Notary Public
25 in and for the State of Wisconsin, at the AmericInn,

0002

1 3009 Lakeshore Drive East, Ashland, Wisconsin, on
2 the 13th day of December, 2005, commencing at 7:00
3 o'clock in the evening.

4
5 A P P E A R A N C E S

6 MEAGHER & GEER, PLLP, 33 South Sixth
Street, Suite 4200, Minneapolis, Minnesota,
7 55402-3788, by MR. JACOB S. WOODARD, appeared on
behalf of St. Paul Fire & Marine, Inc., St. Paul
8 Mercury and The Phoenix Insurance Company.

9 MEISSNER, TIERNEY, FISHER & NICHOLS,
S.C., The Milwaukee Center, 111 East Kilbourn
10 Avenue, Milwaukee, Wisconsin, 53202-6622, by MR.
JEFFREY D. PATZA, appeared on behalf of Ranger
11 Insurance Company, TIG and U.S. Fire.

12 LORD, BISSEL & BROOK, LLP, 115 South
LaSalle Street, Chicago, Illinois, 60603-3901, by
13 MR. BRIAN TARNOW, appeared on behalf of the London
Market Insurers and INSCO.

14
15 GREENE ESPEL, 200 South Sixth Street,
Suite 1200, Minneapolis, Minnesota, 55402-1415, by
MS. JEANETTE M. BAZIS, appeared on behalf of
16 Northern States Power Company, d/b/a Xcel Energy,
Inc.

17
18 CLAUSEN MILLER, P.C., 10 South
LaSalle Street, Chicago, Illinois, 60603-1098, by
MR. SAL PELLEGRINO, appeared telephonically on
19 behalf of Old Republic Insurance Company.

20 NELSON, CONNELL & CONRAD, S.C., 150
 North Sunnyslope Road, Suite 305, P.O. Box 1390,
 21 Brookfield, Wisconsin, 53008-1390, by MR. PHILIP J.
 TALLMADGE, appeared on behalf of Puritan/Westport.

22
 HINSHAW & CULBERTSON, LLP, 222 South
 23 Ninth Street, Suite 3100, Minneapolis, Minnesota,
 55402-3336, by MS. DUANA J. GRAGE, appeared on
 24 behalf of Fireman's Fund.

25 MAHONEY, DOUGHERTY and MAHONEY, PA,

0003

1 801 Park Avenue, Minneapolis, Minnesota, 55404, by
 MR. PETER J. MANDERFELD, appeared on behalf of
 2 Allstate as Successor to Northbrook.

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I N D E X

WILLIAM P. CARRINGTON

By Mr. Tarnow.....5

By Mr. Manderfeld.....44

By Mr. Tallmadge.....48

By Mr. Patza.....50

By Mr. Tarnow.....60

By Ms. Bazis.....61

E X H I B I T S

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1 (The original transcript was retained by Halma-Jilek
 Reporting.)

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(Exhibits 1 through 8 were retained by the court
 reporter. The original exhibits were attached to
 the original transcript and copies were attached to
 all ordered copies of the transcript.)

* * * *

25
0005

TRANSCRIPT OF PROCEEDINGS

WILLIAM P. CARRINGTON, called as a
witness herein by the Plaintiffs, after having been
first duly sworn, was examined and testified as
follows:

EXAMINATION

BY MR. TARNOW:

Q Mr. Carrington, can you please state your full
name for the record?
A William Pete Carrington.
Q Have you before been deposed before?
A Yeah.
Q And can you tell me the circumstances under which
you were deposed?
A Does that mean like what this is right here?
Q Exactly.
A Basically the same case a couple, three years
ago.
Q Do you remember the name of the case?
A No. It was -- No, I don't.
Q Do you remember the topics for which you
testified?
A It was some coal tar down by the Bay Front.
Q And did it involve the same site, the Ashland
site?

0006

A Yes.
Q Okay. Was that case the Grossjean case?
A I don't know.
Q And can you provide just a brief summary of what
you testified to in that case?
A Well, that was a few years ago already, so I
remember it was something about where the deposit
was laying on the ground down there and how it
got moved, the city moving it over to a site by
the old sewage treatment plant.
Q As I believe I mentioned, my name is Brian
Tarnow. I represent certain insurers in this
matter, and I just want to go over with you some
ground rules on how a deposition goes. You
stated that you have been deposed before, so some
of this may be familiar to you, but I will need
you to answer verbally to all my questions.
If I ask a question you have to answer
with a yes or no, please just answer with a yes
or no. Shakes of the heads can't be picked up by
the court reporter here. If you don't understand
a question, please ask me to repeat it or to
clarify it for you and I will do that. However,
if you do answer a question, we will assume you
understood my question. Is that fair?

0007

A Sounds good.
Q And if you need a break at any time, please let
me know and we can take a break for you. Are you
being represented by Jeanette here today?
A No.
Q Okay. Are you being represented by any counsel
in this matter?
A No.
Q Mr. Carrington, did you do anything to prepare
for this deposition today?
A Nope.
Q You didn't speak with any individuals or review

13 any documents?
14 A No.
15 Q Okay. Can you please tell us what your address
16 is?
17 A 1121 Fifth Avenue East here in Ashland.
18 Q And how long have you lived at this address?
19 A Eleven years.
20 Q And where did you live prior?
21 A I lived here in town.
22 Q Do you remember that address?
23 A It was an apartment on East Sixth Street, but I
24 don't remember the house number.
25 Q How long did you live at that address?
0008
1 A Maybe four or five years. I'm not real sure.
2 Q Have you lived in Ashland your entire life?
3 A No.
4 Q When did you first move to Ashland?
5 A Well, I took a job here part time for Wilhelm
6 Engineering, so I lived here in the summer and I
7 moved away in the winter. That was maybe -- I
8 don't even know what year. My oldest kid is 30,
9 and he was in third grade. That would have been
10 what. That would be 22 years ago, I guess, 23,
11 something like that.
12 Q So you first moved to Ashland about 23 years ago?
13 A Yes.
14 Q What's your date of birth?
15 A 12/11/55.
16 Q And are you married?
17 A Yes.
18 Q I'd like to go over your educational background
19 with you. Did you graduate from high school?
20 A Yeah.
21 Q And where did you attend high school?
22 A Forest Hills High School in Plymouth.
23 Q Did you attend any school after high school?
24 A I took some night courses, but --
25 Q What type of classes were those?
0009
1 A Just welding.
2 MS. BAZIS: Plymouth, Minnesota?
3 THE WITNESS: Yes. I'm in an
4 apprenticeship right now with the operating
5 engineers, too, so --
6 BY MR. TARNOW:
7 Q Do you have any professional certifications or
8 licenses of any kind?
9 A No.
10 Q And where are you currently employed?
11 A Roffers Construction.
12 Q Can you spell that for me, please?
13 A R-O-F-F-E-R-S.
14 Q And how long have you been employed with them?
15 A Seventeen or 18 years, I guess.
16 Q And are they located in Ashland?
17 A Yes.
18 Q And what are your job responsibilities with
19 Roffers?
20 A I'm an operating engineer.
21 Q Can you describe for us what your typical duties
22 would be?
23 A Run a loader, backhoe, bulldozer, set grade.
24 Q And where did you work prior to working at
25 Roffers?
0010

1 A wilhelm Engineering.
2 Q And when did you first start working at wilhelm
3 Engineering?
4 A well, that's the job that I came to town for, so
5 that was probably 25 years ago. I spent a couple
6 winters, you know, living in Ontanagua (phonetic)
7 and I was working here in the summer, so I was
8 jumping back and forth.
9 Q You started with wilhelm Engineering in
10 approximately 1981?
11 A Yeah, something like that.
12 Q And how many years did you work at wilhelm
13 Engineering?
14 A Three or four, maybe five, whatever it is there.
15 Q And where did you work prior to wilhelm
16 Engineering?
17 A I worked for Damson Petro Services in Forsan,
18 Texas.
19 Q What were your job responsibilities with Damson?
20 A I was a truck driver.
21 Q And approximately how long did you work with
22 Damson?
23 A I must have been there about three years, I
24 guess.
25 Q Are you familiar with a company called Northern
0011 States Power?
1 A Yes.
2 Q Were you ever employed by Northern States Power?
3 A No.
4 Q Are you familiar with a company called Xcel
5 Energy?
6 A Sure.
7 Q Were you ever employed by Xcel Energy?
8 A Nope.
9 Q I want to discuss with you your involvement at
10 the Ashland site, the Ellis Avenue Project. Can
11 you tell me who was your employer at this site?
12 A wilhelm Engineering.
13 Q And did you have a specific title at this time?
14 A I was a survey technician.
15 Q What were your job responsibilities as a survey
16 technician?
17 A I was a rodman on a survey crew.
18 Q And can you please describe for me briefly what
19 is a rodman does?
20 A One man is the instrument man and the other guy
21 does all the leg work, all the walking around for
22 the shots.
23 Q You would be the person working the instrument?
24 A No.
25
0012
1 Q You were the person walking around?
2 A Yes.
3 Q Who was your supervisor at this time?
4 A My immediate boss was Wayne Rado.
5 Q Can you spell that?
6 A I think it's R-A-D-O.
7 Q What was his title?
8 A He was an RLS.
9 Q What does ROS stand for?
10 A RLS, registered land surveyor, State of
11 Wisconsin.
12 Q And who was Mr. Rado's supervisor?
13 A It would have been Russ Fish.
14 Q Do you recall the names of any of your co-workers

15 at this site?
16 A Art Durocher was the project engineer.
17 Q And what would a project engineer do?
18 A He designed the -- he's the one that stamped the
19 plans that got submitted to Madison and drew them
20 up. He didn't draw them up, but --
21 Q He was responsible for the design work on the
22 project?
23 A Of the Ellis Avenue extension and the marina.
24 Q And can you describe for us what areas of that
25 site your company worked on?
0013
1 A well, yeah, we worked everything from Ellis
2 Avenue and Highway 2 north to the end of the
3 marina.
4 Q Actually, I'd like to show you an aerial
5 photograph of the site in 1987.
6 A Yes.
7 Q Does that look accurate as to how the site would
8 be at that time?
9 A Sure.
10 (Exhibit 1 was marked.)
11 BY MR. TARNOW:
12 Q Could you identify for me by drawing a circle
13 around the areas at that site where your company
14 worked?
15 A well, this here must be the Chequamegon Hotel.
16 Sure. Actually, it was a little more wider on
17 this end like that (indicating).
18 Q Okay. Can you initial that circle for me,
19 please?
20 A (Witness responds.)
21 Q Did your company work in any other areas of that
22 site?
23 A Nothing that I can think of. You know, the
24 marina itself is probably out here a little more
25 (indicating). We did that, but it's not on the
0014
1 picture.
2 Q Okay. When you say "out here a little more," you
3 are indicating west of the circle that you just
4 made?
5 A Yeah, right.
6 MS. BAZIS: On the peninsula?
7 THE WITNESS: On the peninsula, correct.
8 BY MR. TARNOW:
9 Q You don't recall your company working on any
10 other areas of the site?
11 A No, I don't think so.
12 Q Okay. At the time that you were working at that
13 site, did your company work with any employees of
14 either NSP or Xcel Energy?
15 A I don't know. I wasn't -- I mean, that would be
16 the project engineer. Talk to them people.
17 Q You don't recall any Xcel Energy employees or NSP
18 employees around that area while you worked?
19 A No.
20 Q How long was your company working at this site?
21 A well, the project started and it was over the
22 course of a couple years from the time they did
23 the initial survey and then design work and we'd
24 go back and restake it for construction, so it
25 might have been more than that.
0015
1 Q Can you approximate the date that you first
2 started working at that site?

3 A No. I wouldn't even know what year was the first
4 year we were there.
5 Q Can you approximate the year that you stopped
6 working at that site?
7 A Probably was the last year I worked for Wilhelm
8 Engineering.
9 Q And what year would that be?
10 A Twenty-three years ago. It would have been about
11 '85, '87, somewhere in there.
12 Q Is that the year that you stopped working at the
13 site or the year the company stopped working at
14 the site?
15 A That's the year I went to work for somebody else.
16 Q Okay. And do you know how much longer, if at
17 all, the company remained at the site?
18 A Nope. I have no idea.
19 Q Okay.
20 A I think by then the project might have been done,
21 but I'm not quite sure about that, either.
22 Q Have you been back to that Ellis Street Project
23 site since 1985 when you left?
24 MS. BAZIS: I will object to form.
25 THE WITNESS: Yes, I have a boat in the
0016 marina, so I'm there about every day.
1 BY MR. TARNOW:
2 Q Do you know if wilhelm Construction Company --
3 A No, wilhelm Engineering Company.
4 Q Do you know if wilhelm Engineering needed to
5 obtain any kind of permit to dig or do any work
6 at the site?
7 MS. BAZIS: Objection, foundation.
8 THE WITNESS: I don't believe that would
9 have been the engineers. I believe that would
10 have been the contractor that did the digging,
11 which was James Peterson & Sons.
12 BY MR. TARNOW:
13 Q So you don't recall one way or the other?
14 A No, I don't.
15 Q Do you know if your company, Wilhelm Engineering,
16 performed any research as to potential
17 underground structures in that area prior to
18 digging?
19 A I don't know.
20 Q I'd like to discuss now the events regarding the
21 digging of the alleged substance on the Ellis
22 Street Project. Can you describe for me what
23 your company was doing at the time?
24 A Well, Wayne and I were setting grade stakes
0017 coming down the hill for the proposed Ellis
1 Avenue extension. We would work ahead of the
2 contractors a station or two.
3 Q So you were setting grade stakes that ran
4 parallel to the street, is that correct?
5 A There was no street.
6 Q Parallel to where the street was planned?
7 A Right.
8 Q And what is involved in setting grade stakes?
9 A Well, it takes a transit and a rod, an elevation
10 rod, a survey tape, measuring tape.
11 Q And you would perform these activities prior to
12 any excavation?
13 A Yeah, yeah, because the stake would be to tell
14 the operator how deep to dig or how much to dig.
15 Q Okay. Can you describe for me the events of the
16

17 excavation?
18 A well, that was so long ago really nothing
19 particular stands out in my mind as far as they
20 had a great big backhoe and a loader truck and a
21 couple of scoops and they worked their way down
22 that hill.
23 Q They excavated that area with a backhoe?
24 A Yes.
25 Q Did they use any other equipment?
0018
1 A They trimmed behind them with a bulldozer.
2 Q Do you know who was operating the backhoe?
3 A No.
4 Q Do you know who was operating the bulldozer?
5 A No.
6 Q What were you doing while the excavation was
7 taking place?
8 A Well, like I said, we were setting grade ahead of
9 them, so that's basically what I was doing.
10 Q Would that mean that you were further down the
11 street where the proposed street was going to be
12 while they were doing the excavation?
13 A Exactly.
14 Q Approximately how far were you from the area that
15 they were excavating?
16 A I don't know. Probably within 400 or 500 feet
17 most of the time.
18 Q And if you can continue explaining to me -- Once
19 they were excavating the area, if you could
20 describe for me what was found?
21 A Well, they come down across the tracks. When
22 they got to the north of the tracks, the railroad
23 tracks, there was black tarry smelly stuff that
24 started showing up, and then I remember they
25 stopped digging and got the city down there. It
0019
1 was something to do about not putting that with
2 the rest of the clay, where the clay was going.
3 They were going to haul that elsewhere and the
4 city was going to do the hauling.
5 Q Could you see this black substance prior to
6 excavating in the area?
7 A Yeah, when I was surveying along that ditch line
8 along the railroad tracks, the north side of the
9 railroad tracks, it was kind of seeping into the
10 ditch. I had a pair of waders on, and as I had
11 to cross this ditch, you know, it was ongoing.
12 This stuff would get on these wadders.
13 Q And who first discovered the black substance?
14 A I would think it was probably the backhoe
15 operator or his boss, maybe.
16 Q And you don't recall the name of the backhoe
17 operator?
18 A No.
19 Q Do you recall the names of any other individuals
20 who were at that area when the black substance
21 was discovered?
22 A No.
23 Q Can you describe for me what the black substance
24 looked like?
25 A Well, it was a black kind of thicker almost like
0020
1 molasses, and it had this real distinct smell.
2 Q What did it smell like?
3 A Maybe creosote, railroad ties, something like
4 that.

5 Q Have you worked around creosote before?
6 A Well, I worked for another job where they dug
7 through a hill that had creosote in it.
8 Q When did this take place?
9 A This other job?
10 Q Yes.
11 A That was maybe 1990.
12 Q And can you describe for me again your
13 involvement with the creosote at this other job?
14 A Oh, that was -- I'm not sure of the name of the
15 company or nothing, but the state knew about it.
16 It was a DOT state highway job. As we were
17 putting the gravel on top and as we follow the
18 contractor that dug it, you know, the trucks
19 would go by us and we walked up there and looked
20 at it.
21 Q Did any of this creosote at the other job need to
22 be removed?
23 A I really don't remember what they did with it.
24 I'm sure it was removed, but I don't know where
25 it was put or anything that happened to it.
0021
1 Q Okay. So you were following trucks that were
2 grading the land at this other project, is that
3 correct?
4 A Yes. Well, I work for the same company now as I
5 did then, and it's a gravel producing company, so
6 in the process of building a road they go dig it
7 and put some sand on it and then we go and put
8 the gravel on it. That's what we were doing.
9 Q Okay. Were you involved with creosote at any
10 other site?
11 A Nothing I can think of.
12 Q Was the creosote or -- Excuse me. Strike that.
13 was the black substance that was
14 discovered at the Ellis Project in Ashland
15 contained in any type of underground structure?
16 A You mean like a building or something?
17 Q Was there a tank or a storage unit of any type?
18 A No, no. I think it was just trapped in the clay.
19 Q And you mentioned that it was visible prior to
20 excavating the area?
21 A I remember it was kind of in that creek. I
22 remember it being in the creek on the north side
23 of the railroad tracks.
24 Q And do you know definitively what that substance
25 was, that black substance?
0022
1 A No.
2 Q So you are not certain that it was creosote?
3 A No.
4 Q After the excavation began at that project, do
5 you recall having any conversations with anyone
6 in your company regarding the substance that you
7 found?
8 A I just remember Wayne telling me that they were
9 going to quit digging until they come up with a
10 plan to get rid of that stuff, to do something
11 with it. It wasn't going to go with the clay.
12 The prime contractor didn't -- must have had a
13 place to get rid of the clay and it didn't
14 include anything other than clay.
15 Q Did Wayne make the decision to stop digging?
16 A No.
17 Q Do you know who made the decision to stop
18 digging?

19 A I imagine the contractor.
20 Q Do you know for sure who made the decision?
21 A No.
22 Q Do you know why a decision was made to stop
23 digging?
24 A No.
25 Q Do you recall any conversations between anyone at
0023
1 wilhelm Engineering and any other companies,
2 including the City of Ashland, regarding the
3 material that was discovered?
4 A No.
5 Q Can you describe for me what happened after the
6 material was discovered?
7 A Well, it was like an hour and one-half or so, a
8 couple hours later they went back to work and a
9 couple of City of Ashland trucks showed up and
10 the black stuff was loaded into the trucks.
11 Q When you say "they went back to work," who do you
12 mean?
13 A The contractor, the backhoes and those people.
14 Q They went back to work prior to the city truck
15 showing up?
16 A When the city truck showed up, they went back to
17 work.
18 Q What did they -- Strike that.
19 What did the city trucks do when they
20 showed up?
21 A Well, they were loaded with the black stuff. I
22 can't remember if they went back up Ellis Avenue
23 or went around the other road to this area over
24 here which is south of the sewage treatment
25 plant.
0024
1 Q Okay. And do you recall who loaded the city
2 trucks?
3 A That backhoe.
4 Q Okay. The Wilhelm Engineering backhoe?
5 A No, we didn't have backhoe. That was the
6 contractor that was doing the digging. All
7 Wilhelm Engineering did was the construction
8 staking. We didn't have anything to do with the
9 building.
10 Q What was the companies -- what company excavated
11 the area?
12 A James Peterson & Sons. I think maybe in those
13 days it was just James Peterson.
14 Q And do you recall the names of any individuals
15 who worked for James Peterson?
16 A No.
17 Q Okay. And so James Peterson's backhoe loaded the
18 city trucks, is that correct?
19 A Right.
20 Q And then where did the trucks take the material?
21 A To this area that's north or south of the old
22 sewage treatment plant alongside the railroad
23 tracks there.
24 Q Can you take that red pen for me again and circle
25 the area that you just indicated?
0025
1 A I'm not real sure where it went, but it went in
2 this area here someplace (indicating).
3 Q Can you again initial that circle and put the
4 number two inside of it?
5 A (Witness responds.)
6 Q Do you know who decided to remove the black

7 substance?
8 A No.
9 Q Do you know approximately how long it took to
10 remove the black substance?
11 A It seems to me it started in the afternoon and
12 went on, you know, through that day's work and
13 then part of the next day, so like all together
14 maybe like one day or a little less than one day.
15 Q And how many trucks were used to remove the
16 material?
17 A I can only remember a couple of City of Ashland
18 trucks.
19 Q Two trucks?
20 A Two or three. I'm not sure.
21 Q Two or three. Do you know how much material was
22 removed?
23 A No.
24 Q Do you know what material was -- Strike that.
25 was any material placed into the hole
0026 where the black material was removed to fill it?
1 A Yes, they put clay back in there in the hole.
2 Q And who placed the clay back in the hole?
3 A James Peterson & Sons.
4 Q Do you know where they obtained that clay?
5 A No, I don't know for sure where it came from.
6 Q Do you recall any conversations with anyone from
7 either James Peterson, Wilhelm Engineering or the
8 City of Ashland regarding any aspect of the
9 cleanup of the or -- excuse me -- of the removal
10 of the black substance?
11 A I don't remember any, you know, specific
12 conversations, no.
13 Q Do you know if NSP or Xcel Energy was involved at
14 all with the removal of the black substance?
15 A I don't think so.
16 Q Did you notice any of this black substance at any
17 other areas at the site?
18 A Unh-unh. I didn't see any, no.
19 Q Did you notice any other types of substances at
20 any other areas of the site?
21 A No.
22 Q During your time at the site do you recall seeing
23 any underground pipes?
24 A No, I don't.
0027
1 (Exhibit 2 was marked.)
2 BY MR. TARNOW:
3 Q Can you please review that document for me.
4 A I remember that.
5 Q Can you identify that document?
6 A I remember going through this, yeah.
7 Q This is an affidavit that you prepared on
8 September 20th of 1995, is that correct?
9 A Yeah, apparently so.
10 Q And you have seen this document before, is that
11 correct?
12 A Sure.
13 Q Did you prepare this document?
14 A I didn't type it, no.
15 Q Do you know who typed this document?
16 A No, I don't.
17 Q Do you know the circumstances when you first saw
18 this document?
19 A You know, I guess I just don't remember. I
20 remember seeing a document and I remember making

21 some changes, but I don't --
 22 Q Do you know who first showed you this document?
 23 A Nope.
 24 Q Can you look at Paragraph 3 for me, please. The
 25 first sentence in Paragraph 3 states that a large
 0028 area of coal tar was discovered?
 1 A Um-hum.
 2 Q Is it correct to say that you are not certain
 3 that it was coal tar that was discovered?
 4 A Yes, it is. It would be correct to say that.
 5 Q It would be correct to say that you are not
 6 certain that it was coal tar?
 7 A That's right.
 8 Q Okay. And the third sentence says the area was
 9 covered in water a few inches deep and weeds were
 10 growing in it. Do you remember making that
 11 statement?
 12 A Yes, I do.
 13 Q And is that correct, as well?
 14 A Yes, that's correct.
 15 Q And then if you look at the fifth paragraph, the
 16 first sentence, it says on the date of the
 17 affidavit I visited Kreher Park with
 18 representatives from Northern States Power
 19 Company. Do you remember making this statement?
 20 A Yes.
 21 Q Can you please describe for me the circumstances
 22 around you visiting Kreher Park?
 23 A There was a couple guys from NSP, and I can't
 24 remember their names, came to my house. They
 0029 were talking about, you know, this whole thing
 1 and I explained to them pretty much what I told,
 2 you know, everything since then and they wanted
 3 to know if I could take them down there and show
 4 them where and what I was talking about.
 5 Q Do you recall who you spoke to from NSP?
 6 A I don't. I remember the guy was the head of the
 7 guy that buys the land for NSP, whoever that
 8 would have been.
 9 Q I'm sorry. The head of the guy that?
 10 A The department that buys land, like power line
 11 land, right-of-way land.
 12 Q But you don't remember the name specifically?
 13 A No, I don't.
 14 Q Do you recall any aspect of your conversation
 15 with them?
 16 A No, not really.
 17 Q And you stated that they contacted you at your
 18 home, is that correct?
 19 A I think that they had called me before that and
 20 asked if they could come talk to me, yes.
 21 Q Do you know how they obtained your name or
 22 number?
 23 A I don't remember. I don't know.
 24 Q Do you know how they decided they would like to
 0030 talk to you?
 1 A No. There might have been an article in the
 2 Ashland paper one time about that or the
 3 pollution down there and they asked if anybody
 4 had any information, if they would call, and I
 5 called.
 6 Q You called NSP?
 7 A Yes.

9 Q Do you remember who you spoke to when you called?
10 A No.
11 Q And do you know approximately the date that you
12 called them?
13 A I have no idea.
14 Q Do you know the date that this article appeared
15 in the newspaper?
16 A Nope.
17 Q If you could turn to the second page of the
18 affidavit for me, please. Paragraph 7 is a
19 handwritten paragraph. Can you read that for me,
20 please?
21 A "The excavation area that I marked on the map was
22 an area behind bounded on the east and west
23 20 feet on the slope of Ellis Avenue. On the
24 north and south the area was staked approximately
25 five feet north of the tracks and continued to a
0031 point approximately 50 feet north of the tracks."
1 Q And is that your handwriting?
2 A No, it's not.
3 Q Do you know whose handwriting that is?
4 A No, I don't.
5 Q Are those your initials next to the paragraph?
6 A Yes, PC. That's my name, yeah.
7 Q Do you recall making those initials?
8 A Yes, I do remember.
9 Q And on the first page, as well, next to
10 Paragraphs 1 and 3, are those your initials, as
11 well?
12 A Yes.
13 Q Is that your handwriting next to Paragraph 1 that
14 says, "I was formerly employed by Wilhelm
15 Engineering?"
16 A No, that's not my handwriting.
17 Q Do you know whose handwriting that is?
18 A No.
19 (Exhibit 3 was marked.)
20
21 BY MR. TARNOW:
22 Q Mr. Carrington, I'd like to show you a letter
23 dated October 5, 1995 from John Wilson to
24 yourself.
25 A Yes, okay.
0032
1 Q Do you recall receiving this letter?
2 A No, I don't.
3 Q And in this letter from Mr. Wilson it states that
4 your assistance has been quite valuable in our
5 investigation of Kreher Park. Do you have any
6 idea what he means by "your assistance has been
7 quite valuable?"
8 MS. BAZIS: Objection, calls for
9 speculation and foundation.
10 THE WITNESS: I don't know. I can't
11 remember.
12 BY MR. TARNOW:
13 Q Do you recall speaking with any employees of NSP
14 or Xcel Energy? Strike that.
15 After you were initially contacted NSP,
16 can you describe for me when you spoke to them
17 regarding this site?
18 A After the initial contact that I made?
19 Q Yes.
20 A I don't remember how they got back ahold of me or
21 when they did.
22 Q Do you recall how many times you talked to NSP or

23 Xcel Energy?
 24 A I for sure can think of one time.
 25 Q When would that have been?
 0033
 1 A When I went for a ride with those guys in, I
 2 assume, September of '95.
 3 Q Did you make the affidavit on that same date?
 4 A I don't recall that.
 5 Q Do you recall ever meeting or speaking with John
 6 Wilson?
 7 A I don't. I don't recall that name.
 8 Q Mr. Carrington, I'd like to show you another
 9 document here. It's Bates numbered NSPW073308.
 10 It appears to be on letterhead from John Wilson
 11 regarding yourself. Could you please take a look
 12 at that, please.
 13 Q Do you have any idea -- Strike that.
 14 On the note it says, "Suspended
 15 Activities." It provides your name. Is that
 16 your telephone number underneath your name?
 17 A Yes, it is.
 18 Q Do you have any idea what this note represents?
 19 A I have no idea.
 20 MS. BAZIS: Objection, calls for
 21 speculation, lack of foundation.
 22 THE WITNESS: No, I don't.
 23 BY MR. TARNOW:
 24 Q Do you have any idea what Mr. Wilson meant by
 25 suspended activities?
 0034
 1 A No, I don't.
 2 MS. BAZIS: Same objection, calls for
 3 speculation. Was this marked as an exhibit or
 4 not?
 5 MR. TARNOW: No.
 6 (Exhibit 4 was marked.)
 7 BY MR. TARNOW:
 8 Q Mr. Carrington, I'm going to hand you another
 9 document here. It's a document by Veritas
 10 Associates regarding an interview of yourself on
 11 March 16, 1995.
 12 MR. TALLMADGE: Is this an exhibit?
 13 MR. TARNOW: Yes.
 14 BY MR. TARNOW:
 15 Q Have you had a chance to review that document,
 16 Mr. Carrington?
 17 A Yes, I sure did.
 18 Q I'd like to ask you on the second page it
 19 mentions that Wayne Rado kept diaries of the
 20 activities?
 21 A Well, what he really kept was everything that we
 22 did. You know, he wrote everything down.
 23 Q Okay. When you say "everything that we did," who
 24 are you referring to as "we?"
 25 A Wayne and I as a surveying crew.
 0035
 1 Q And do you recall ever reviewing his notes?
 2 A No, not particularly. I reviewed the notes all
 3 the time, but I don't remember this in
 4 particular.
 5 Q You don't recall reviewing his notes regarding
 6 the Ellis Project, is that correct?
 7 A No, I don't.
 8 Q Do you know if Wayne kept notes regarding the
 9 Ellis Project?
 10 A If we were on the job that day, he kept notes for

11 that day.
12 (Exhibit 5 was marked.)
13 BY MR. TARNOW:
14 Q Okay. Mr. Carrington, I'd like to hand you
15 another document. It's the interview of Tom
16 Hubbard on March 20, 1995. Can you please review
17 that for me. Can you look at the last sentence
18 in Paragraph 2, the one that reads, "The
19 excavation material from this area was a black
20 gunky substance, but did not smell like
21 creosote." Did you ever discuss this substance
22 with Tom Hubbard?
23 A I don't recall.
24 Q Do you know the basis for Tom Hubbard's statement
25 that it did not smell like creosote?
0036
1 MS. BAZIS: Objection, calls for
2 speculation, lack of foundation.
3 THE WITNESS: I have no idea.
4 BY MR. TARNOW:
5 Q If you could look in the third paragraph, it
6 looks like it's toward the end of the paragraph,
7 the sentence Mr. Hubbard does not believe that
8 the material Pete Carrington referred to in his
9 interview was creosote. Do you recall speaking
10 with Mr. Hubbard regarding the nature of the
11 substance that was discovered?
12 A Nope.
13 Q And if you can look at the last paragraph on the
14 first page. Mr. Hubbard recalled that Rocky
15 Tribovich was the backhoe operator who first
16 encountered the creosote when excavating for
17 Marina Drive. Does that sound familiar to you?
18 A I know Rocky. I don't think Rocky was there.
19 Q You don't think Rocky was at that site?
20 A No.
21 (Exhibit 6 was marked.)
22 BY MR. TARNOW:
23 Q Mr. Carrington, can you please review a memo
24 dated February 4, 1998 from the State of
25 Wisconsin. Mr. Carrington, can you please look
0037
1 at the second paragraph where it discusses an
2 interview by Martin Eder, I believe, where it
3 states that he worked as a construction inspector
4 on the same Ellis Avenue extension project and
5 does not recall any coal tar on that project.
6 A I don't recall Martin being on the project.
7 Q You don't recall Martin being at the project?
8 A No.
9 Q Do you recall ever speaking to Martin about the
10 project?
11 A We worked together, I'm sure we talked about it
12 over coffee at the coffee pot, but not at that
13 job.
14 Q Do you have any reason to believe Mr. Eder would
15 be correct that there was no coal tar at that
16 project?
17 A I don't know why he would say that.
18 Q Okay. If you could please look at the next
19 paragraph where it states that the Department
20 also interviewed Tom Hubbard who stated that dark
21 colored peat soils were encountered in the area
22 just north of the railroad tracks and that it had
23 been planned on. It states that Mr. Hubbard said
24 --

25 MS. BAZIS: It says "planed on."
0038

1 MR. TARNOW: Planed on. I'm sorry. I
2 believe that was a typo, but --
3 BY MR. TARNOW:
4 Q It goes on to say that the area was a wetland.
5 This is further supported by photographs taken by
6 Mr. Hubbard. Do you recall -- I apologize if I
7 already asked this. Do you recall ever speaking
8 with Mr. Hubbard regarding this project?
9 A No, I don't remember.
10 Q Do you recall Mr. Hubbard being at this project?
11 A I remember him being around for the marina, but
12 not the Ellis Avenue extension.
13 Q If you could please look at the last paragraph,
14 as well, the sentence that begins, no analytical
15 data collected were consistent with the existence
16 of a source area (coal tar pit) in the Carrington
17 pit location. Do you have any reason to believe
18 that the state's data is incorrect that no coal
19 tar was in the area?
20 A I have no reason to believe that.
21 MR. TARNOW: Can we take a short break,
22 maybe five minutes, just to get my last exhibit
23 together?
24 (A recess was taken.)
25 (Exhibit 7 was marked.)

0039

1 BY MR. TARNOW:
2 Q Mr. Carrington, I'd like you to take a look at
3 another letter, May 23, 1997 from Mr. Ingraham to
4 James Dunn. If you can please read starting on
5 Page 2, it's Paragraph 3, and the following
6 response. Starting on Paragraph 3 on Page 2 and
7 the response at the top of Page 3.
8 A Okay.
9 Q If you could look at the second sentence in the
10 response on Page 3 that reads, "Mr. Hubbard
11 recalls material removed by the City of Ashland
12 as natural organic soils unsuitable for roadway
13 foundation." Do you have any reason to believe
14 that Mr. Hubbard's statement that the materials
15 were removed because they were unsuitable soils
16 is incorrect?
17 A No, that's correct.
18 Q Do you have any reason to believe that the
19 statement that they were natural organic soils
20 unsuitable for roadway foundation is incorrect?
21 A Well, I don't think that's what they were.
22 Q And why do you believe that that statement is
23 incorrect?
24 A Well, how does organic material get four feet,
25 five, six feet down in a pocket of red clay? How

0040

1 does it get there? It doesn't make sense.
2 Q Are you familiar with peat?
3 A Sure.
4 Q Is it possible that this substance that was
5 removed from this wetland was peat?
6 A Yes, it is possible.
7 (Exhibit 8 was marked.)
8 BY MR. TARNOW:
9 Q And the last exhibit I have for you is No. 8. I
10 just have -- If you can please turn to Page 15,
11 Paragraph 7.1.
12 A Paragraph what?

13 Q 7.1.
14 MR. PATZA: What report is this?
15 MR. TARNOW: He has the only copy. It's
16 the report of testing results by the government
17 contractor.
18 MR. TALLMADGE: What's the title of it?
19 MS. GRAGE: Table of Contents.
20 MR. PATZA: It's one of the SEH reports,
21 though?
22 MR. TARNOW: It's the supplemental
23 Investigation Report of the Ashland Lakefront
24 Property.
25 MR. PATZA: Thanks, Brian.
0041
1 MS. BAZIS: In the corner it says WIDNR
2 9401.02, at least on the page I'm looking at.
3 MR. TARNOW: And Page 3 of the exhibit
4 appears to be the cover, prepared for Wisconsin
5 Department of Natural Resources.
6 BY MR. TARNOW:
7 Q Mr. Carrington, did you have a chance to review
8 Paragraph 7.1?
9 A Yes.
10 Q Does Paragraph 7.1 regard an investigation of the
11 soil at the Ellis Project?
12 A It appears to.
13 Q Does that report conclude that coal tar was not
14 in that area?
15 A That's what it says.
16 Q Do you have any reason to believe that that
17 report by the government is incorrect?
18 A I don't know if it is or not.
19 Q So you have no reason to believe that that report
20 is incorrect?
21 A Right.
22 Q You stated earlier that you have knowledge of a
23 company called NSP?
24 A Northern States Power.
25 Q Correct. What is your understanding of this
0042
1 company and its operations?
2 A The reason I have a knowledge of NSP is because I
3 made checks out to the power company when they
4 were our power supplier here.
5 Q You made checks out to the company?
6 A Sure.
7 Q Because they were your power supplier?
8 A Power company.
9 Q Are you familiar with them -- their operations in
10 any other manner?
11 MS. BAZIS: Objection, vague.
12 BY MR. TARNOW:
13 Q Are you familiar with their operations at the
14 Ashland site?
15 A The place we are talking about?
16 Q Correct.
17 A No.
18 Q Are you familiar -- You stated earlier that you
19 are familiar with a company called Xcel Energy?
20 A Sure.
21 Q Are you familiar with any of Xcel's operations at
22 the Ashland site?
23 A No.
24 Q Are you familiar with the term manufactured gas
25 plant?
0043

1 A Yeah.
2 Q Do you know if a manufactured gas plant ever
3 operated at the Ashland site?
4 MS. BAZIS: Objection, lack of
5 foundation.
6 THE WITNESS: I don't know.
7 BY MR. TARNOW:
8 Q Is it fair to say then that -- Strike that.
9 Are you familiar with any types of
10 by-products produced by a manufactured gas plant?
11 MS. BAZIS: Objection, lack of
12 foundation.
13 THE WITNESS: No.
14 BY MR. TARNOW:
15 Q Are you familiar with any investigations or
16 remediations that took place from 1980 to the
17 present at the Ashland site?
18 MS. BAZIS: Objection, lack of
19 foundation.
20 THE WITNESS: Investigations or
21 remediations? Well, I know there's been an
22 ongoing investigation.
23 BY MR. TARNOW:
24 Q And how do you know this information?
25 A It's been in the newspapers and on the news.
0044
1 Q Is your knowledge of the investigation and
2 remediation limited to what you have read in the
3 newspaper?
4 A Oh, yes.
5 MR. TARNOW: I think that's all I have.
6 Thank you.
7 EXAMINATION
8 BY MR. MANDERFELD:
9 Q Sir, I'm Peter Mandefeld. I introduced myself
10 before we started. I just have one thing I
11 wanted to follow up on. Do I understand
12 correctly that your recollections of your
13 contacts with either NSP or Xcel or somebody
14 affiliated with them with respect to this
15 interview and then the site visit was limited to
16 you saw something in the newspaper and responded
17 to it?
18 A Right.
19 Q And that was by telephone?
20 A Yes, I think so.
21 Q Do you remember who you talked to when you
22 called?
23 A No, I don't.
24 Q Was there a telephone number to call in what you
25 saw in the newspaper?
0045
1 A There must have been.
2 Q Okay. Then the next contact that you remember is
3 two men that came to your house?
4 A Well, a couple guys did come to my house.
5 MS. BAZIS: I will object to the extent
6 it misstates his prior testimony.
7 THE WITNESS: A couple guys did come to
8 my house, but I'm not sure in what sequence that
9 all happened. I know I called NSP or whoever
10 first, and I don't know if somebody called me
11 back. I just don't remember how it all came
12 about.
13 BY MR. MANDERFELD:
14 Q Okay. The next thing you do remember is this

15 meeting with the two people at your house?
 16 A I do remember a couple guys coming over, sure.
 17 Q Is it your recollection that this meeting and the
 18 visit to the Kreher Park area, that all happened
 19 the same day?
 20 A Yes.
 21 Q Then do you remember any other contact with
 22 either NSP or Xcel after the meeting where you
 23 went to the park?
 24 A I think I was only there one time with anybody
 25 from this case.

0046

1 Q Okay. And my question wasn't limited to just
 2 going to the site, it was just any either
 3 telephone contact or in person contact.
 4 A I can just remember the once.
 5 Q So there's your telephone call, there's the
 6 meeting and then there may have been other phone
 7 calls or other meetings, but you don't remember
 8 anything else specifically?
 9 A I'm sure there weren't any other face-to-face
 10 meetings. I would have recalled that. There may
 11 have been a phone call in there or a couple phone
 12 calls.
 13 Q The affidavit which was marked as Exhibit 2, do
 14 you remember seeing that and going over it with
 15 somebody after the day that you had the meeting?
 16 A Exhibit 2, did you say?
 17 Q Yes, sir.
 18 A That's the map.
 19 Q No, it should be the affidavit. Oh, it has the
 20 map attached to it.
 21 A Right. You know, I guess I don't really remember
 22 where this was given, how this was taken care of.
 23 I don't remember this. I mean, I remember it,
 24 but I don't remember if it was at my house, if it
 25 was at NSP's office. I just don't remember.

0047

1 Q Do you have any recollection at any point after
 2 going to Kreher Park going over to an NSP office
 3 and sitting with somebody while something was
 4 typed up?
 5 A No.
 6 Q What were you told about what these folks were
 7 trying to do, what they were looking for?
 8 A I think it was something to do with sole
 9 liability, that they didn't want to have the
 10 whole liability on them.
 11 Q What did they tell you about that?
 12 A I can't remember. I just remember something
 13 about liability, that they didn't think it was
 14 all theirs, that all the liability was theirs.
 15 Q And by "theirs" you mean?
 16 A The power company.
 17 Q Did they tell you what they were looking for?
 18 A No.
 19 Q Did they tell you what they were hoping to find?
 20 MS. BAZIS: Objection, vague.
 21 THE WITNESS: No. They probably did, I
 22 just don't remember.
 23 MR. MANDERFELD: Okay. That's all I
 24 have. Thank you.
 25 MR. TALLMADGE: I'm going to have just

0048

1 one or two questions.
 2 EXAMINATION

3 BY MR. TALLMADGE:
4 Q I apologize if you have been asked this before.
5 when the people, the NSP people came to your
6 home, did they then drive you to Kreher Park?
7 A I don't remember if I took my car or rode with
8 them. I don't remember if I followed them down
9 there, maybe.
10 Q There was a meeting with NSP people down at
11 Kreher Park?
12 A Right.
13 Q Okay. Do you remember if this affidavit that is
14 Exhibit 2 was shown to you while you were still
15 at Kreher Park?
16 A I don't remember.
17 Q You don't know one way or the other?
18 A Right.
19 Q Do you know one way or the other if the people
20 from NSP brought the affidavit with them when
21 they came to your house?
22 MS. BAZIS: Asked and answered.
23 THE WITNESS: I don't remember.
24 MR. TALLMADGE:
25

0049

1 BY MR. TALLMADGE:
2 Q You mentioned a fellow named Wayne Rado. How do
3 you say it?
4 A I say Rado. I don't know how he says it.
5 Q R-A-D-O?
6 A Right.
7 Q Do you know where Wayne Rado lives?
8 A I ran into him a couple years ago, too. I think
9 he told me he was living in Eau Claire, Chippewa
10 Falls.
11 Q Do you know who he works for?
12 A An engineering firm down there.
13 Q Do you know the name of it?
14 A No, I don't.
15 Q The other fellow you mentioned was Art Durocher?
16 A Yes.
17 Q D-U-R-O-C-H-E-R?
18 A I think it's D-E-R -- well, yeah, right.
19 Q Do you know where that fellow lives?
20 A Right now he's passed away.
21 Q The area of this black material we have been
22 discussing, can you give me an idea of the size
23 of the area that it covered?
24 A Oh, well the area I would have known about for
25 sure would have been the width of that road.

0050

1 Q The width of a two-lane road?
2 A Yes, plus ditches and slopes, so it's 20, 30, 40
3 maybe 50-feet long and 50-feet wide, 75-feet
4 long, 50-feet wide, somewhere in there.
5 MR. TALLMADGE: I think that's all I
6 have.

EXAMINATION

8 BY MR. PATZA:
9 Q Mr. Carrington, my name is Jeff Patza and I just
10 have a few questions for you, as well. You
11 stated that when you were doing the surveying for
12 the extension of Ellis Avenue and you were going
13 ahead of the actual construction project while
14 you were doing the surveying you actually saw
15 some of the black material seeping up through the
16 ground onto the railroad tracks, is that correct?

17 A Not really on the tracks. It was in the ditch to
18 the north of the tracks.
19 Q It was just seeping up through the ground? You
20 could actually see the black material?
21 A Yes.
22 Q Did the black material that you saw have any
23 smell?
24 A Yes, I remember a distinct smell.
25 Q What was that distinct smell?
0051
1 A Something on the order of creosote, a heavy
2 chemical smell kind of.
3 Q Can you describe the substance itself, whether it
4 was thick or watery?
5 A It was liquid, but it was thick and kind of
6 gooey.
7 Q And how much of it could you see seeping through?
8 Was it all over the place or just in one specific
9 area?
10 A Well, that ditch is -- wasn't really a ditch, per
11 se, but it was a little swale there and it was --
12 it had it in it.
13 Q When you saw that material seeping through the
14 ground there, did you inform the people that were
15 doing the construction project of what you saw?
16 A No, I don't think I said anything. Wayne and I
17 might have talked about it, but that's as far as
18 I would have talked about it with anybody.
19 Q You talked before about your prior experience
20 with creosote, and that was on a DOT highway job
21 that you worked on about 1990, is that correct?
22 A Right.
23 Q And you said that during the process of that job
24 creosote was found, is that right?
25 A They knew it was there. I mean, it wasn't like
0052
1 they discovered it. It was planned for. It was
2 in the plans. It was planned for containment.
3 Q So the DOT knew that there was creosote on the
4 site at this highway?
5 A Right.
6 Q And where was this highway project, if you
7 remember?
8 A I believe it was on Highway 70, but I can't
9 remember the town there. I can't remember.
10 Q And Highway 70. I'm sorry, I'm unfamiliar with
11 that highway. Where does that highway run, if
12 you know?
13 A Highway 70 from, you know, through Fifield. The
14 part we were on was west of Winter. I can't even
15 remember west of what the next town is.
16 Lacuderay (phonetic), it was west of there, but
17 I'm not sure where.
18 Q I'm sorry, but is this in Northern Wisconsin?
19 A Yes, Northern Wisconsin. Kind of by Hayward,
20 south of Hayward.
21 Q And did the DOT, who you have testified knew
22 about the creosote, did they inform you that you
23 would be encountering creosote on the site?
24 A They didn't tell me, no.
25 Q And you have testified that that was how you knew
0053
1 that the substance you later found on the Ellis
2 Avenue Project was creosote. How did you come to
3 find out that the substance that you encountered
4 working on the DOT highway job was creosote?

5 A Because that's what everybody talked about down
6 there. But that was after I worked on the Ellis
7 Avenue extension. Then I went to work for
8 Roffers and we were down at Highway 70 then. I
9 just phased back to it saying, yes, I smelled
10 that smell before, I have seen that stuff before.
11 Q And that was from the DOT highway project?
12 A Yes.
13 Q And when you are saying they talked about it, you
14 are talking about the DOT or the people on the
15 construction project?
16 A Everybody. The DOT, the guys on the project,
17 everybody.
18 Q And you associate that material which you were
19 informed was creosote with the material that you
20 later encountered on the Ellis Avenue Project?
21 A Right.
22 Q Getting back to the actual discovery of this
23 material during the Ellis Avenue Project, when
24 you talked about when the City of Ashland trucks
25 came up to haul the material away and the
0054 material was being loaded in the trucks, and I
1 believe you said it took the rest of that
2 afternoon and into the next day to complete that
3 process, did the construction project stop during
4 that time?
5 A No, I don't think it did. I think it kept pretty
6 much on going.
7 Q Did they just go around the area that was being
8 excavated or how did the project continue?
9 A Well, the project started from the south and
10 worked north. When we got to this pit, they just
11 dealt with that and kept going north.
12 Q So when you say "they dealt with that and kept
13 going north," when you say dealt with it, you
14 mean actually excavating all the material,
15 loading into the trucks and hauling it away, is
16 that correct?
17 A Right.
18 Q And, again, you testified that process took the
19 rest of that afternoon and into the next day?
20 A Yes.
21 Q Did the construction then not start up again
22 until that next day when all the material had
23 been excavated and removed?
24 A Well, there only was the one backhoe digging, so
0055 he never quit digging, so the project never
1 stopped. So it never started up again because it
2 never stopped.
3 Q Let me clarify what I'm asking about. The people
4 that were working on the construction part of it
5 behind you that were doing the survey, what
6 exactly were they doing, and this is prior to the
7 discovery of the material, just in their normal
8 course of operations?
9 A Well, what they were doing is cutting that clay
10 down to grade. So when they got to where that
11 contamination was or whatever it was, they just
12 would excavate below subgrade, took the material
13 out, pushed the clay from behind back into the
14 hole and kept on going.
15 Q I see. Do you know whether anyone from either
16 NSP or Xcel Energy was informed of this discovery
17 of this black material?
18

19 MS. BAZIS: Objection, lack of
20 foundation.
21 THE WITNESS: I don't know.
22 BY MR. PATZA:
23 Q Do you know whether the DNR or any other state
24 government agency besides the City of Ashland was
25 informed of the discovery of this black material?
0056
1 MS. BAZIS: Objection, lack of
2 foundation, calls for speculation.
3 THE WITNESS: I don't know.
4 BY MR. PATZA:
5 Q And how was the City of Ashland informed of this
6 discovery?
7 A I don't know that, either.
8 MS. BAZIS: Same objections.
9 BY MR. PATZA:
10 Q If we can get back to your affidavit that was
11 marked as Exhibit 2, in Paragraph 5 when it says
12 on the date of this affidavit I visited Kreher
13 Park with representatives of Northern States
14 Power Company, do you know was one of those
15 representatives John Wilson?
16 MS. BAZIS: Asked and answered.
17 MR. PATZA: You can answer the question.
18 THE WITNESS: I'm thinking. I can't say
19 for sure if it was or not.
20 BY MR. PATZA:
21 Q Do you know whether one of the representatives
22 was someone named LeRoy Wilder?
23 A I don't know that, either.
24 Q Do you know whether one of the representatives
25 was Jerry Winslow?
0057
1 A Jerry who?
2 Q Winslow?
3 A No, I don't know.
4 Q And then on the second page of your affidavit
5 that just has that final Paragraph 6 and then
6 your signature, do you remember signing the
7 affidavit, Mr. Carrington?
8 A Oh, yeah.
9 Q And you remember signing it on September 20th of
10 1995?
11 A I don't remember the date I signed it, but I'm
12 sure it was -- it was whatever date they showed
13 it to me, I guess.
14 Q When you say they showed it to you, who showed it
15 to you?
16 A I don't remember their names.
17 Q Do you remember where you were when you signed
18 the affidavit?
19 MS. BAZIS: Asked and answered.
20 THE WITNESS: No, I don't.
21 BY MR. PATZA:
22 Q Do you remember whether there was a notary public
23 present when you signed the affidavit?
24 A I don't remember.
25 Q And getting back to after all this black material
0058
1 was excavated and then loaded onto the City of
2 Ashland trucks, did you actually witness the City
3 of Ashland trucks hauling material away?
4 A I remember they backed up to the backhoe.
5 Q So you do remember the backhoe loading the
6 material onto the trucks?

7 A Right.
8 Q And I'm wondering after that process was
9 completed, after all the material had been loaded
10 onto the trucks, did you actually witness or
11 observe the trucks driving away from that area
12 with the material?
13 A Sure.
14 Q And how far did you watch them travel?
15 A Oh, I think they went right down that little road
16 and took a right down there about 400, 500 feet
17 and took another right and then backed up in
18 there and dumped.
19 Q Did you actually observe the process of dumping
20 that material just south of the wastewater
21 treatment plant?
22 A Yeah. I mean, I wasn't standing right there
23 watching them, but I could see them from where I
24 was.
25 Q How long did that process take?
0059
1 A You mean to go up there dump and come back?
2 Q Exactly.
3 A Oh, I imagine ten minutes.
4 Q And do you know how the decision was made to take
5 that material to that area just south of the
6 wastewater treatment plant?
7 MS. BAZIS: Objection, lack of
8 foundation.
9 THE WITNESS: No, I don't.
10 BY MR. PATZA:
11 Q Do you know whether NSP was aware that that
12 material was being taken down to that area just
13 south of the wastewater treatment plant?
14 MS. BAZIS: Objection, lack of
15 foundation.
16 MR. TALLMADGE: He's asking if he knows.
17 MS. BAZIS: Sorry. I think the
18 objection was proper.
19 THE WITNESS: I don't know.
20 BY MR. PATZA:
21 Q And when you described the width of the area that
22 was found and you said it was essentially the
23 width of Ellis Avenue along with maybe the width
24 of a ditch, that was just the width of the area
25 that you were surveying as the construction
0060
1 project was going on, is that right?
2 A That's right.
3 Q Do you know whether there was any investigation
4 of a further width larger than just where that
5 road was going to be extended?
6 A I don't know.
7 MR. PATZA: That's all I have for you.
8 Thank you, Mr. Carrington.
9 MS. GRAGE: No questions.
10 MR. WOODARD: No questions.
11 MR. TARNOW: Just one more.
12 EXAMINATION
13 BY MR. TARNOW:
14 Q You stated earlier that when you were speaking
15 with NSP they informed you that they did not
16 think that they were the only liable party, is
17 that correct?
18 MS. BAZIS: Objection to the extent it
19 misstates his prior testimony.
20 THE WITNESS: Yes.

21 BY MR. TARNOW:
22 Q Did they tell you who else they believed was
23 liable?
24 A No, I don't remember.
25 Q Did they discuss any other companies with you?
0061
1 A No.
2 Q Did they discuss why they believed they would be
3 liable for coal tar?
4 A No.
5 MR. TARNOW: Okay. That's all.
6 EXAMINATION
7 BY MS. BAZIS:
8 Q I just have a couple of follow-up questions. The
9 insurers' counsel has showed you a number of
10 exhibits, and in particular Exhibits 6 and 7 and
11 8 which are letters or correspondence from the
12 State of Wisconsin, a report by SEH and another
13 report that apparently is an investigation done
14 for Wisconsin. Did the authors of any of these
15 Exhibits 6, 7 or 8 ever talk to you about what
16 you saw at the site that we have been talking
17 about today?
18 A No.
19 Q Did you ever talk to anyone besides the
20 individuals from NSP about what you saw that day,
21 to your recollection?
22 A No, I don't think I did.
23 Q And you said you were familiar with peat in your
24 earlier testimony. Did the black substance that
25 you observed during the Ellis Avenue extension
0062
1 look or smell the same at peat?
2 A No.
3 MS. BAZIS: That's all.
4 (At 8:33 p.m. the deposition concluded.)
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0063

CERTIFICATE OF WITNESS

1
2
3
4 I, WILLIAM P. CARRINGTON, have read
5 the foregoing page and the corrections, if any,
6 having been noted. The same is now a true and
7 correct transcript of my testimony.
8

WILLIAM P. CARRINGTON

STATE OF WISCONSIN)
COUNTY)

Subscribed and sworn to before me this
day of , 2006.

Notary Public
In and for the State of Wisconsin
My commission expires , .

STATE OF WISCONSIN)
MILWAUKEE COUNTY)

I, KATHY A. HALMA, Registered
Professional Reporter, do hereby certify that the
deposition of WILLIAM P. CARRINGTON, was taken
before me at the AmericInn, 3009 Lakeshore Drive
East, Ashland, Wisconsin, on the 13th day of
December, 2005, commencing at 7:00 in the evening.

That it was taken at the instance of
the Plaintiffs upon verbal interrogatories.

That said statement was taken to be
used in an action now pending in the STATE OF
MINNESOTA, CIRCUIT COURT, HENNEPIN COUNTY, FOURTH
JUDICIAL DISTRICT, in which St. Paul Mercury
Insurance Company, et al., are the Plaintiffs,
Northern States Power Company, d/b/a Xcel Energy,
Inc., et al., are the Defendants and Fidelity and
Casualty Company of New York is the Third-Party
Plaintiff and Admiral Insurance Company, et al., are
the Third-Party Defendant.

A P P E A R A N C E S

MEAGHER & GEER, PLLP, 33 South Sixth
Street, Suite 4200, Minneapolis, Minnesota,
55402-3788, by MR. JACOB S. WOODARD, appeared on
behalf of St. Paul Fire & Marine, Inc., St. Paul
Mercury and The Phoenix Insurance Company.

MEISSNER, TIERNEY, FISHER & NICHOLS,
S.C., The Milwaukee Center, 111 East Kilbourn
Avenue, Milwaukee, Wisconsin, 53202-6622, by MR.
JEFFREY D. PATZA, appeared on behalf of Ranger
Insurance Company, TIG and U.S. Fire.

LORD, BISSEL & BROOK, LLP, 115 South
LaSalle Street, Chicago, Illinois, 60603-3901, by
MR. BRIAN TARNOW, appeared on behalf of the London
Market Insurers and INSCO.

GREENE ESPEL, 200 South Sixth Street,
Suite 1200, Minneapolis, Minnesota, 55402-1415, by
MS. JEANETTE M. BAZIS, appeared on behalf of
Northern States Power Company, d/b/a Xcel Energy,
Inc.

CLAUSEN MILLER, P.C., 10 South
LaSalle Street, Chicago, Illinois, 60603-1098, by
MR. SAL PELLEGRINO, appeared telephonically on
behalf of Old Republic Insurance Company.

WPC121~1.txt

NELSON, CONNELL & CONRAD, S.C., 150
North Sunnyslope Road, Suite 305, P.O. Box 1390,
Brookfield, Wisconsin, 53008-1390, by MR. PHILIP J.
TALLMADGE, appeared on behalf of Puritan/Westport.

HINSHAW & CULBERTSON, LLP, 222 South
Ninth Street, Suite 3100, Minneapolis, Minnesota,
55402-3336, by MS. DUANA J. GRAGE, appeared on
behalf of Fireman's Fund.

MAHONEY, DOUGHERTY and MAHONEY, PA,
801 Park Avenue, Minneapolis, Minnesota, 55404, by
MR. PETER J. MANDERFELD, appeared on behalf of
Allstate as Successor to Northbrook.

That said deponent, before
examination, was sworn to testify the truth, the
whole truth, and nothing but the truth relative to
said cause.

That the foregoing is a full, true
and correct record of all the proceedings had in the

matter of the taking of said deposition, as
reflected by my original machine shorthand notes
taken at said time and place.

KATHY A. HALMA, RPR

Dated this 29th day of December, 2005,
Milwaukee, Wisconsin.

z

AFFIDAVIT OF RON NYE

STATE OF WISCONSIN)
)
COUNTY OF ASHLAND) ss.

I, RON NYE, the undersigned, duly depose and state as follows:

1. I reside at Rural Route 2, Ashland, Wisconsin 54806. I am a 53-year old lifelong resident of the Ashland area.

2. I attended grade school and junior high school at the St. Agnes School, which was located on the top of the bluff and adjacent to the west end of the Kreher Park site (the "Site").

3. I spent a considerable amount of time as a boy on the Site in the late 1940s and 1950s, involved in both school-sponsored activities as well as playing with my friends after school.

4. I recall landfill activities on the ~~west end of the Site~~. My friends and I used to play King of the Hill on the piles of waste that were routinely disposed of in ~~an excavated pit in the area where boat trailers are currently parked, just east of Ellis Avenue~~ ^{an area just south of the sewage treatment plant R3.} I remember trucks disposing of a variety of products in this area such as stone, bricks, masonry block, iron, cinders, demolition debris and roofing materials. Periodically, the mound of waste was leveled off and when that occurred, my friends and I used to play touch football in the area. We couldn't play tackle football because the area still had debris protruding from the ground. *I marked the fill area on the attached photo and placed my initials next to the mark. R.N.*

5. I have received no payment or benefit of any kind from any party for making this affidavit.

Dated this 20th day of September, 1995.

Ron Nye 9/20/95
Ron Nye

Subscribed and sworn to before me
this 20th day of September, 1995.

[Signature]
Notary Public, State of Wisconsin
My commission is permanent.

6. In approximately 1969 or 1970 St. Joseph's ~~hospital~~ hospital was razed and disposed of on the Site although I don't recall the exact location on the Site. R.N.

o

1
2 STATE OF WISCONSIN CIRCUIT COURT ASHLAND COUNTY
3 GEORGE F. GROSJEAN and
4 DIANE L. GROSJEAN, Case No. 02-CV-150
Plaintiffs, Deposition of:
5 vs FRED KOVACH.
6 NORTHERN STATES POWER COMPANY,
7 a Wisconsin Corporation, d/b/a
8 XCEL ENERGY SERVICES, INC., and
9 AEGIS SECURITY INSURANCE COMPANY,
Defendants,
10 and
11 COMPCARE HEALTH SERVICES INSURANCE
CORPORATION, ATRIUM HEALTH PLAN, INC.
Nominal Defendants.
12
13 Deposition examination of FRED KOVACH,
14 taken under and pursuant to Section 804 of the
15 Wisconsin Statutes and the acts amendatory thereof and
16 supplementary thereto, pursuant to notice, before
17 Kathleen M. Bay, Freelance Court Reporter and Notary
18 Public in and for the State of Wisconsin, at the
19 Ashland County Courthouse, Room 204, 201 West Main
20 Street, Ashland, Wisconsin, on the 8th day of October,
21 2003, commencing at 1:37 p.m. and concluding at
22 2:06 p.m.
23
24 APPEARING ON BEHALF OF THE PLAINTIFFS:
25 Mr. D.J. Weis
Attorney at Law
26 26 South Brown Street
Rhineland, WI 54501
27
28 APPEARING ON BEHALF OF THE DEPENDANTS:
29 Mr. J. Drew Ryberg
Kelly & Ryberg, S.C.
30 1620 Ohm Avenue
P.O. Box 479
31 Eau Claire, WI 54702-0479
32
33 EBEA REPORTING GLIDDEN, WI 715-264-2113

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6	EXAMINATION BY MR. WEIS:	25,
7	RE-EXAMINATION BY MR. RYBERG:	27,
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11		
12	EXHIBITS	
13		PAGE MARKED
14	Exhibit Number 1	3
15		
16	(The above original exhibit was included with the	
17	original transcript and copies thereof were included	
18	with each transcript copy.)	
19		
20		
21		
22		
23		
24		
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1 PROCEEDINGS
2 (Exhibit Number 1 marked for
3 identification.)
4 FRED KOVACH, after having been first
5 duly sworn, testified as follows:
6 EXAMINATION BY MR. RYBERG:
7 Q. Could you state your name and address,
8 sir?
9 A. Fred Kovach, 1400 10th Avenue West.
10 Q. You're a retired gentleman?
11 A. Yes, I am.
12 Q. Where did you work?
13 A. At the sewage plant.
14 Q. The Waste Water Treatment Plant?
15 A. Right.
16 Q. For how many years?
17 A. Twenty-eight years.
18 Q. When did you retire?
19 A. 1986, June 4th.
20 Q. What was the position you held at the
21 Waste Water Treatment?
22 A. Just laborer.
23 Q. There did you work with Mr. Grosjean?
24 A. Yes, I did.
25 Q. Did you know him quite well?

3

1 A. Yes, I did.
2 Q. What was his position?
3 A. Mostly he worked in the lab, but also
4 labor on the outside.
5 Q. When you worked at the Waste Water Plant,
6 was it also on the Chequamegon Bay?
7 A. Yes.
8 Q. In the course of the work did you see that
9 Mr. Grosjean would have contact with chemicals and so
10 on to assess water quality?
11 A. Yes.
12 Q. Were you involved in that aspect of
13 testing water?
14 A. No.
15 Q. Your position was different from that
16 altogether?
17 A. Yes.
18 Q. Can you tell me where you grew up, sir?
19 A. Ashland.
20 Q. You went to high school here?
21 A. I went to grade school. I didn't finish
22 high school. I started in 9th grade.
23 Q. Where did you go to grade school?
24 A. St. Agnes.
25 Q. That's Our Lady Of The Lake?

1 A. Right now it is, yes.
2 Q. Did you live in that area too?
3 A. Yes, I did. I lived on St. Claire Street.
4 Q. That's north of St. Agnes is it?
5 A. Yes.
6 Q. Mr. Kovach, did you have contact with an
7 area of creosote or coal tar that would be below the
8 bluff, kind of north of your home?
9 A. Oh, yes. When we were working in there
10 and I helped on a contracting job for the sewage
11 plant.
12 Q. To build the plant?
13 A. Yes.
14 Q. Did you work for the City then, or for the
15 contractor?
16 A. For the contractor.
17 Q. Do you remember the name of the
18 contractor?
19 A. I don't recall.
20 Q. Attached to Exhibit 1 is a map and that's
21 your affidavit, is it, Exhibit 1?
22 A. Oh, yes.
23 Q. And that is dated September 2nd of -- I'm
24 sorry, 20th of 1995, correct?
25 A. This date down here?

5

1 Schroeder Lumber been there?
2 A. Schroeder Lumber was across Prentice
3 Avenue and then this area, there was a derrick there I
4 remember, but I don't remember if that was Schroeder
5 Lumber Mill or not.
6 Q. Do locate for us on the map, you're saying
7 it was to the east of the road?
8 A. That would be east. East, right.
9 Q. And east of what we see is the Waste Water
10 Treatment Plant?
11 A. Yes.
12 Q. In this area that we can see on the map to
13 the south of the Treatment Plant, was there an area
14 ever where there was coal tar that was located above
15 the ground?
16 A. There was a spur, railroad spur, and they
17 used to have a tanker there all the time, even when I
18 was a young kid. I remember that. I used to go by
19 there when I used to go swimming and fishing. I lived
20 down by the lake.
21 Q. On St. Claire?
22 A. Yes. And I used to go swimming and
23 fishing; then I made that walk along the railroad
24 tracks, go on what they call the pulp hoist, or dock
25 at the time.

7

1 Q. Yes, the date right here.
2 A. Oh, yes, there you go. Sorry.
3 Q. That was September 20th, '95?
4 A. Right.
5 Q. On the back of this, or attached to this,
6 Mr. Kovach, is a diagram, or a map?
7 A. I'm not very good at maps.
8 MR. WEIS: Shall we orient you a
9 little bit. This is the Waste Water Treatment Plant.
10 THE WITNESS: Oh, I see. Okay.
11 MR. WEIS: Okay.
12 BY MR. RYBERG:
13 Q. Mr. Kovach, you were involved working on
14 the construction of that?
15 A. Yes. Not that long, but I did work there.
16 Q. Was that built in roughly the 1940's?
17 A. It was the late '40s, I think it was.
18 Q. In terms of the area that you were
19 involved in assisting the contractor, were you
20 involved in excavating the soil in this area?
21 A. I worked all over the area, right,
22 landscaping and construction, when they were digging
23 with a clam in that stuff; pulling the slabs and all
24 that up, I had part of that work too.
25 Q. In the area before this construction, had

6

1 Q. And we can see the railroad track in this
2 map?
3 A. I don't know if that would be it here
4 (indicating).
5 Q. You're describing the area?
6 A. It was closer to the lake though.
7 Q. You recall the railroad being --
8 A. Yes.
9 Q. And the pulp hoist or dock, where is that,
10 if you can figure that for us?
11 A. That would be west in this area here
12 (indicating).
13 Q. Kind of on the western end of our map?
14 A. Right.
15 Q. That street that you just had your left
16 middle finger on, is that Ellis?
17 A. Pardon me?
18 Q. Is that Ellis out there on the left?
19 A. Ellis? Well, that would be -- that's two
20 blocks east of Ellis.
21 Q. All right.
22 A. In that general area.
23 Q. With respect to the area that you people
24 dug for the Waste Water Treatment Plant, did you
25 encounter any creosote or any unusual substance in the

8

1 course of digging?

2 A. Yes.

3 Q. Tell me what you found.

4 A. Well, when they dug -- first of all there

5 was contractors that come down there and tested it and

6 said they wouldn't touch it at all, the area.

7 Q. Do you remember why that was?

8 A. Because of the slabs. There was a

9 multitude of slabs built in there from -- put in there

10 by Schroeder Lumber Company I imagine. Then this one

11 contractor come in and I was helping with the

12 foundation of the plant and when they would go down

13 with the slab, that grease and oil and stuff would

14 just be dripping off of that and it was just like I

15 told them, as far as the area is nice now and digging

16 it up and everything to me is -- I think it's a no,

17 no.

18 Q. In other words, if they were to do that

19 now, you think that's a no, no?

20 A. Yeah.

21 Q. Back at the time you were working for the

22 contractor, did you get near to that material to smell

23 it and to observe the --

24 A. Oh, yeah. When you raise it over, I would

25 be working.

9

1 Q. What did it smell like, sir?

2 A. Like oil and grease.

3 Q. And in terms of how liquid it was, was it

4 runny, or was it thick?

5 A. Well, with the water you got -- we had

6 water there also, you know. When they brought that

7 clam up, that was mixed in with the water and grease.

8 Q. Do you know where that came from, this

9 type of material?

10 A. I don't have the faintest idea.

11 Q. Was there ever any dump that was in this

12 area, do you know, that we see in the map?

13 A. Not that I know of.

14 Q. Was there any landfill use that was made

15 of this area by the City of Ashland that you know?

16 A. Well, we hauled stuff in there. It wasn't

17 no -- it was like regular dirt that they hauled in.

18 Q. For fill?

19 A. And clay, yeah.

20 Q. Was that fill that was used for the plant?

21 A. Used for the plant?

22 Q. Yes.

23 A. Yes. They hauled stuff in around there to

24 cover up and make it look nice.

25 Q. In terms of garbage or disposition of

10

1 refuse, anything like that?

2 A. No.

3 Q. Did the City ever use this area for that

4 that you recall?

5 A. No, not that I do.

6 Q. Did you ask anybody what this substance

7 was that you encountered in working for the

8 contractor?

9 A. Nope. I never questioned anybody on it.

10 I just worked for a living.

11 Q. And your date of birth was what?

12 A. June 4th, '24.

13 Q. In paragraph three of the affidavit, Mr.

14 Kovach, "I observed a petroleum type waste mixed in

15 with the large slabs of wood"; do you see that?

16 A. Yes.

17 Q. Have we described that previously in

18 answers to questions you've told me about that?

19 A. Yes.

20 Q. Did your family ever describe what the use

21 by Schroeder had been; what they were doing before?

22 A. No.

23 Q. Any of your friends ever describe that for

24 you?

25 A. No.

11

1 Q. Then you said that you described --

2 A. I monkeyed around by Schroeder Lumber

3 Mill. That was every kids thing down there. Monkey

4 around by the plant. We weren't supposed to, but we

5 would go swimming on the end of what they call the

6 booms. That was west of the Soo Line or Dock and we

7 swam out there all the time. And we couldn't help

8 walking by there all the time.

9 Q. In walking by did you ever come upon a

10 black pond that was located out on the land?

11 A. I had that brought up to me and I don't

12 recall that at all.

13 Q. Okay. At the time that Schroeder's last

14 would have operated you would have been about --

15 A. Oh, boy.

16 Q. Eight years old, ten years old, something

17 like that?

18 A. About ten, yeah.

19 Q. Did they make railroad ties?

20 A. Not that I know of.

21 Q. Did they use creosote in finishing any of

22 the wood products that you know?

23 A. Not that I know.

24 Q. Did they stack creosote treated product

25 anywhere near this area that you know?

12

1 A. No, I don't think so.

2 Q. Could you describe on the map there where

3 that tanker was, Mr. Kovach?

4 A. There was a railroad spur, must have been

5 right in here (indicating).

6 Q. You're indicating an area that runs

7 roughly west and east?

8 A. Yes. Right straight down from the bank on

9 the -- off of that. Who owns that there two blocks

10 west of -- I mean east of Ellis Avenue. It was just

11 below the bank. Right behind -- they used to have

12 them tanks, NSP, I remember, because when I went to

13 school I said boy, if them ever blew up we would be in

14 tough shape. Well, right where their storage area is

15 now.

16 Q. The storage area of NSP?

17 A. Right over the bank and there was a spur

18 that used to come in there.

19 Q. So really close to the ravine?

20 A. Right close to the bank there.

21 Q. Was there one also by the service road

22 that we can see on the north?

23 A. Well, there was a spur there that also

24 tended to work for the pulp hoist and then when the

25 pulp hoist pulled out they would pull out this way and

13

1 go up the way here (indicating).

2 Q. So for our --

3 A. And what else was I going to say. It

4 slipped my mind there. Oh, and they used to take that

5 tanker and bring it back down and then run it up on

6 the spur and that tanker laid there all the time

7 around the clock until they emptied it, or whatever

8 they did. I don't know what they did, but I know

9 there was oil -- it must have been when they were

10 loading it because there was oil always on the side of

11 that car.

12 Q. This was on the tanker car?

13 A. Yes.

14 Q. On a railroad spur?

15 A. Yes.

16 Q. Was it enclosed?

17 A. Yes.

18 Q. And you could see occasionally oil

19 material on the side of the tanker?

20 A. Yes. Every time I went by swimming or

21 fishing.

22 Q. Do you know what was put in and out of

23 that tanker?

24 A. I don't have the foggiest. I was just a

25 young kid and it didn't matter what was in there to

14

1 me.

2 Q. Who owned the tanker?

3 A. I don't know.

4 Q. You described before and I failed to get

5 this on the record, the area of the spur. If I begin

6 at the area of the Waste Water Treatment Plant --

7 A. Well, that would be where the open field

8 is from the Treatment Plant and then there's that --

9 well, that would be right by the bank there.

10 Q. All right.

11 A. Where the railroad went. Then when they

12 pull it down there they would push it back up on that

13 spur. I don't know if they did the signal or when

14 they come down with the pulp gondola cars or not.

15 Q. The gondola cars came from where?

16 A. From the north -- Soo Line Railroad.

17 Q. And where was that located?

18 A. And they loaded pulp. That's up -- where

19 would that be, Fourteenth? Fourteenth or Thirteenth

20 Avenue East.

21 Q. So there was a gondola that ran over part

22 of the City transporting things in the air down to the

23 water?

24 A. Yes. They ship pulp wood. It come in

25 rafts and then they loaded it in these gondola cars,

15

1 about 15, 20. Every day they would ship out, but that

2 was their job also to bring that oil tanker down

3 there.

4 Q. All right. And the oil tanker is what you

5 told us about before?

6 A. Yes.

7 Q. The track it ran on was located somewhat

8 near that service road that we can see just to the

9 south of the Waste Water Treatment?

10 A. Yes.

11 Q. And it ran to the west and ran to what

12 appears to be Ellis, and then there was a line that

13 ran to the south, correct?

14 A. Yes. That spur now, that was a dead-end.

15 That didn't go any more. They had to go down and then

16 bring it in. That didn't go through or nothing.

17 Q. And the spur was something in between what

18 we see as Ellis and just to the south of the Waste

19 Water Treatment?

20 A. Yes.

21 Q. And the tanker was on that spur?

22 A. The tanker was on the spur all the time.

23 Q. Where it came from and where it went, do

24 you know?

25 A. I don't know.

16

1 Q. And what it was doing?

2 A. No. I knew there was -- I knew it was oil

3 or something dripping down.

4 Q. Did you ever get close enough to smell it?

5 A. Oh, I walked right by it.

6 Q. Did it have any odor?

7 A. Not that I know of.

8 Q. Did it have any writing on the side of the

9 tanker car?

10 A. Yes, it had writing.

11 Q. Do you know what it said?

12 A. No. You're going back a long time for me.

13 I don't remember my own name sometimes.

14 Q. Well, you're doing great. The tanks that

15 you said when you would be going to school, that if

16 they ever blew, everybody would be in tough shape,

17 were those on top of the hill?

18 A. Right on top of the hill. Right across

19 from where the school is now. And it used to go up

20 and down and that -- what was his name, Gashouse Pete

21 used to be the head mogul on running them, whatever he

22 did, because I remember he was a nice man.

23 Q. Gashouse Pete, did he work for the power

24 company?

25 A. Yes, he did.

17

1 Q. And what was going up and down?

2 A. That must have been the fumes, just like

3 our sewage plant, gas build-up would go up; then they

4 would have to release, or dispense it, or something

5 and then it would come back down.

6 Q. This was some gas that got released into

7 the air?

8 A. It must have been. I don't know.

9 Q. Did you ever see any leakage or runoff

10 that came from on top of the hill down below, anything

11 like that, consisting of oil?

12 A. No.

13 Q. Did you observe the manufactured gas plant

14 that was on top of the hill that's back of the current

15 NSP facility? Did you ever see that?

16 A. The tanks?

17 Q. The plant itself. Did you ever see that?

18 A. Oh, yeah, I saw the plant. Sure. I

19 walked right by there when I used to walk and drive to

20 work.

21 Q. Was there any odor that you noticed by the

22 plant, or adjacent to the plant?

23 A. Not that I know of.

24 Q. Did you see any spill or runoff from the

25 plant in the period of time that you recall?

18

1 A. No, uh-uh.

2 Q. And these tanks that you said that you

3 didn't want to blow, that that would create a problem

4 for people, how large were they?

5 A. Oh, man. They were pretty good size. I

6 don't know just -- I don't know. I don't have any

7 idea. I'm pretty poor on feet.

8 Q. Is it your feeling that part of the

9 product that was made by NSP consisted of a gas that

10 was put in those big tanks and that gas was released?

11 A. That's what I think it was. I don't know.

12 I was just a young kid, you know, and I didn't care

13 for nothing in them days, you know.

14 Q. So at the age of eight you didn't

15 anticipate this moment that you would be asked

16 questions about what color socks you were wearing?

17 A. I never dreamed I would be sitting here.

18 I'd like to help, but memory ain't that good any more.

19 Q. When you worked at the Waste Water

20 Treatment Plant, sir, did you ever get involved in

21 working on any of the lines underground that went to

22 the Treatment Plant?

23 A. No.

24 Q. Were there any breaks in the lines that

25 you knew of that had to be repaired?

19

1 A. No.

2 Q. Did you work much with Mr. Grosjean at the

3 Waste Water Treatment Plant?

4 A. I worked quite a bit, but he was mostly in

5 the lab. He worked outside when he got caught up and

6 that stuff in the lab; then he worked outside.

7 Q. How many years was it approximately that

8 you and he worked together?

9 A. Well, I started down there before he did

10 and I don't remember what year he come.

11 Q. Most of the time he was in the lab; in

12 other words, that was his responsibility?

13 A. Yes.

14 Q. Between being outside, or inside, and the

15 duties that Mr. Grosjean did, did you have any

16 recollection of which was a greater majority?

17 A. Well, I'd say he would spend a little more

18 time in the lab, but he was outside quite a bit too.

19 Q. Do you know what kind of chemicals at all

20 that Mr. Grosjean worked with when he was working at

21 the lab?

22 A. No, I didn't know that much about the lab.

23 I know they used to test water and all that stuff and

24 people would come in with samples from their holding

25 tanks and that on the farms and stuff and they would

20

1 check that stuff out. Then they would tell them what
2 to do if they had problems.
3 Q. Specifically what was involved in the
4 chemicals? Do you have any idea?
5 A. I don't have any idea.
6 Q. Was the tanker car that you described for
7 me before placed generally in this location
8 (indicating) when you were a boy?
9 A. It was always there. Even when I grew up
10 till they disbanded it. Whenever that was, I don't
11 know.
12 Q. Was there much material that was on the
13 ground, above ground sitting on the ground that you
14 recall?
15 A. Yes, there was stuff on the ground.
16 Q. Was there any considerable value of it or
17 amount of it?
18 A. No. It seemed to be like dried up and
19 then they would -- whatever they did, then that mostly
20 was -- I don't know how they emptied it, but I know
21 they had them valves and all that stuff right on the
22 platform. I remember that.
23 Q. And where was the platform?
24 A. It was right beyond the tank. The tank
25 was here (indicating), and the platform was right here

21

1 (indicating), so they could reach over and hook the
2 pipes up.
3 Q. Whose pipes, do you know?
4 A. Come from up above.
5 Q. Can you put a "T" and a "P" to indicate
6 where the tanker was and where the platform was as
7 best you can? Understanding again this is our Waste
8 Water Treatment Plant (indicating).
9 A. Yeah. That would be -- that tanker, I'd
10 say it was about one block from the lake, that tanker.
11 Q. Right to the south?
12 A. Yeah.
13 Q. Do you want to draw in a rectangle for
14 that?
15 A. Boy, you're pushing me.
16 MR. WEIS: When you say "right to the
17 south", you mean right to the south of the Waste Water
18 Treatment Plant?
19 THE WITNESS: Well, this is the plant
20 and the tanker was -- I don't know how much space this
21 is that you got on this map, but the tanker was right
22 about here (indicating).
23 BY MR. RYBERG:
24 Q. Do you want to draw a rectangle for that?
25 A. A rectangle?

22

1 Q. Yes, a box.
2 A. Right in this area (indicating).
3 Q. Where you think the tanker was.
4 A. I'm not sure now.
5 Q. Your best judgment.
6 A. My best judgment? Okay (indicating).
7 That's where I would say.
8 Q. Do you want to put a "T" on that, sir?
9 A. Alongside or...?
10 Q. Alongside please.
11 A. (Indicating.)
12 Q. Thank you. And the platform, could you
13 draw that?
14 A. Well, let's see. I'll make a little
15 square for the platform. It was right next to it that
16 I recall.
17 Q. Can you put a little "P" for that?
18 A. (Indicating.)
19 Q. Mr. Kovach, who maintained the platform
20 that you know?
21 A. I don't know. I don't know that at all.
22 I don't know. I never even saw anybody coming there
23 and doing this stuff all the times I had been down
24 there.
25 Q. You just saw the presence of the tanker

23

1 there?
2 A. I saw the tanker and I knew they were
3 emptying it and that because I used to see the Soo
4 Line come in with it all the time. Not all the time,
5 but once in awhile I would see them pull it on and
6 remove it.
7 Q. And they might pull it out and remove it?
8 A. I imagine to make up their freight train
9 up in the yard.
10 Q. So it would get up above to the level of
11 the track above?
12 A. Oh, yes. It would go way up by what they
13 call the scale house. That's where they made up their
14 trains.
15 Q. Where is the scale house located in those
16 days?
17 A. Well, that's in a railroad yard where the
18 car rackers used to work and the scale house was
19 beyond that. The car rackers repaired the cars and
20 everything.
21 Q. Generally from the area we're looking at
22 right here, is that to the south quite a ways?
23 A. Oh, yes that's way up. Yes, that's way
24 up. They would line up all their pulp hoist gondola
25 cars with loaded wood pulp and hook onto them and run

24

1 that all up in that area where they made up the
2 freight trains.
3 Q. The wood came from the pulp factory, is
4 that right?
5 A. Right.
6 Q. And the wood would be out in the
7 Chequamegon and then they would pick it up in the
8 Chequamegon?
9 A. Yes.
10 Q. And then be transported on these gondolas
11 back to where the Soo Line main part was?
12 A. Yes.
13 MR. RYBERG: Those are all the
14 questions I have. Thank you, sir.
15 THE WITNESS: Thank you.
16
17 EXAMINATION BY MR. WEIS:
18 Q. I have a few, Mr. Kovach, if I can. Do I
19 understand that the rail line where this tanker was
20 sitting ran to a point that was near the bottom of the
21 ravine?
22 A. Yeah. Well, you wouldn't call it a
23 ravine. That bank.
24 Q. The bank?
25 A. Yeah, the bank come over the top and this

25

1 Holiday Station was built up top that bank. It goes
2 all the way through. It ends right on Prentice
3 Avenue. That's right where it ends, the bank.
4 Q. Okay. And do you know, is that the M&I
5 Bank, or do you know which bank that is?
6 A. Bank?
7 Q. Yes. Do you know the name of the bank?
8 A. No, no, no.
9 Q. It's just --
10 A. I don't think there was any name for it.
11 Q. Is there a bank there now?
12 A. Yes.
13 Q. And do you know which bank it is now?
14 A. Meaning what?
15 Q. The name of the bank, if it's Associated,
16 or M&I, or Ashland Bank? Do you know which bank it
17 is?
18 A. No. I never heard it by any name. It's
19 all we call it amongst ourselves, the bank.
20 MR. WEIS: The bank. Very good.
21 Thank you, sir.
22
23 RE-EXAMINATION BY MR. RYBERG:
24 Q. The bank reference you mean to an
25 embankment of land?

27

1 was just a little ways away. Like this is a bank
2 (indicating); the railroad was right here.
3 Q. Right towards the bottom of the bank?
4 A. The bottom of the bank.
5 Q. And it was your thought, looking at the
6 situation, that the tanker would be brought down and
7 emptied down at that area?
8 A. That's my -- that was my opinion.
9 Q. And then be taken back up to the top along
10 the rail?
11 A. Yeah, till it was picked up.
12 Q. The area where this happened was near
13 where the bank is now?
14 A. Yeah.
15 Q. And which bank is that?
16 A. The one that comes over from the Main
17 Street. It goes all the way through. That bank, it's
18 still there today.
19 Q. And that's directly to the south of the
20 Waste Water Treatment Plant?
21 A. Yes, that would be south.
22 Q. Okay.
23 A. But that bank runs all the way across.
24 That's been there, well, all the way right down to the
25 coal dock, the Reese Coal Dock. That bank was --

26

1 A. Just an embankment of land.
2 Q. Not a financial institution?
3 A. No. Just embankment. That must have been
4 the end of it.
5 Q. It ran from the Holiday to the Taco Johns
6 and continued all the way down to the east down by Our
7 Lady Of The Lake, correct?
8 A. All the way around the bend there by the
9 Soo Line Ore Dock and straight up into the yard.
10 MR. WEIS: I understand now. I
11 thought you were talking about a bank building at
12 first.
13 THE WITNESS: Oh, no, no, no. I'm
14 sorry. Sorry I confused you.
15 MR. WEIS: That's my fault; not
16 yours.
17 BY MR. RYBERG:
18 Q. And the tanker you described before that
19 you thought was being emptied in that area, do you
20 know if it was filled or emptied in that area? Do you
21 have any idea?
22 A. I'm sure it was emptied. I don't know
23 what the idea -- I don't know. You got me there now.
24 See, I was just a kid, you know. I never paid too
25 much attention to this stuff and as far as that

28

1 question goes, that's many years ago.
2 Q. Did you ever see that pipe that ran from
3 the platform to the top of the tanker in operation?
4 A. No. No, never saw that.
5 Q. The use of the material in the tanker, do
6 you know what became of that?
7 A. No, I don't know that either.
8 MR. RYBERG: Thanks again.
9 THE WITNESS: You're welcome.
10 MR. WEIS: Thank you, sir.
11 (Deposition concluded at 2:06 p.m.)
12
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29

1
2 CERTIFICATION PAGE
3 STATE OF WISCONSIN)
4 ASHLAND COUNTY) ss:
5 I, KATHLEEN M. BAY, a Professional
6 Freelance Reporter, a Notary Public in and for the
7 State of Wisconsin, do hereby certify that the
8 foregoing examination of the person stated was taken
9 before me on the date stated; and
10 That the same was taken upon oral
11 interrogatories reported by diskwriter by me,
12 Freelance Reporter, Route 1, Box 186B, Glidden,
13 Wisconsin 54527 at the time and place stated, and by
14 me reduced to writing, and that the foregoing is a
15 true and correct transcript of said notes to the best
16 of my ability, and of the whole thereof; and
17 That before the examination of said
18 deponent this person was first duly sworn by me to
19 testify the truth, the whole truth and nothing but the
20 truth relative to said cause; and
21 That I am not related in any way to any
22 party, their attorneys or an employee of any of them,
23 and that I am not financially interested in this
24 action.
25
KATHLEEN M. BAY
Professional Reporter
Notary Public
State of Wisconsin
My Commission expires 03-12-06.
Dated this day of October, 2003,
Glidden, Wisconsin.

30

AFFIDAVIT OF FRED KOVACH

STATE OF WISCONSIN)
) ss.
COUNTY OF ASHLAND)

I, FRED KOVACH, the undersigned, duly depose and state as follows:

1. I reside at 1400 Tenth Avenue West, Ashland, Wisconsin 54806.
2. I worked for the Wastewater Treatment Plant located at Kreher Park for 28 years beginning in 1956 and retired in 1986.
3. In 1952 I worked for the contractor that built the Wastewater Treatment Plant. When construction began I observed a petroleum type waste mixed in with the large slabs of wood in the area where they were building the foundation for the Wastewater Treatment Plant.
4. When I was a young boy (approximately 12 to 14 years of age) I observed a railroad tanker car parked on the tracks at the end of Third Avenue East on numerous occasions. My friends and I would play in that area and I recall seeing on the ground near this tanker car oil, or other petroleum type liquid on numerous occasions.
(on the lake side) F.K.
5. ~~On the date of this affidavit I visited Kreher Park with representatives of Northern States Power Company.~~ I marked the location that I observed the railroad tanker car on the attached aerial photo with a red marker and placed my initials next to the mark.
6. I have received no payment or benefit of any kind from any party for making this affidavit.

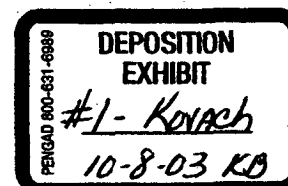
Dated this 20th day of September, 1995.

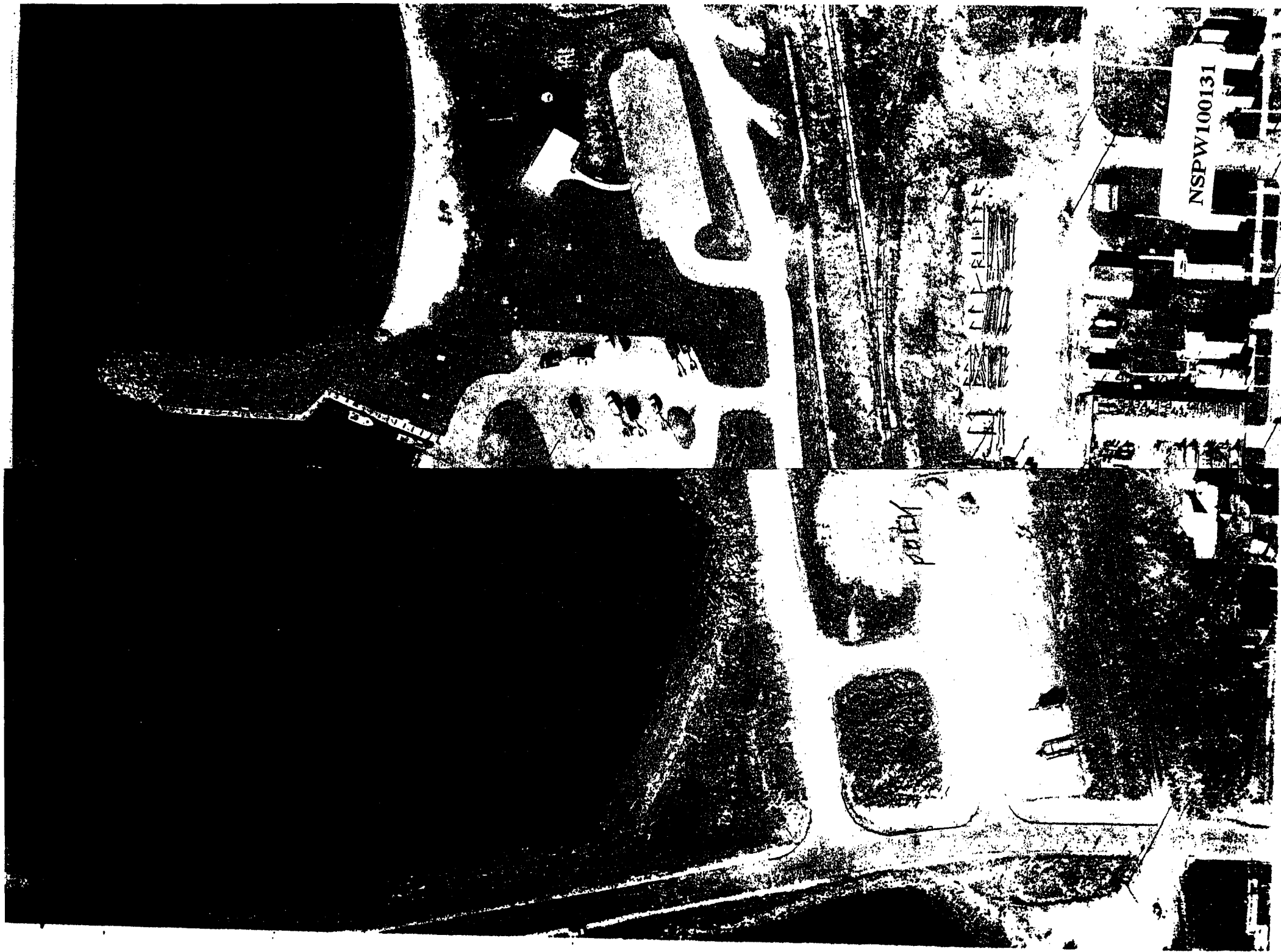
Fred Kovach
Fred Kovach

Subscribed and sworn to before me
this 20th day of September, 1995.

[Signature]
Notary Public, State of Wisconsin
My commission is permanent.

NSPW100130





AFFIDAVIT OF FRED KOVACH

STATE OF WISCONSIN)
) ss.
COUNTY OF ASHLAND)

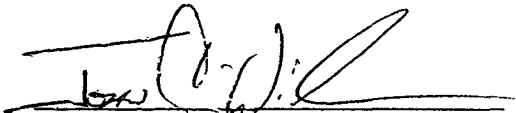
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Dated this 20th day of September, 1995.


Fred Kovach

Subscribed and sworn to before me
this 20th day of September, 1995.


Notary Public, State of Wisconsin
My commission is permanent.



CORRESPONDENCE/MEMORANDUM**State of Wisconsin**

DATE: June 13, 1997

FILE REF: 4400

TO: Ted Smith - NOR/Spooner

FROM: Jamie Dunn - NOR/Spooner

SUBJECT: Abandoned Ashland WWTP Discharge

As we discussed, Mick Michalsen and I meet with the Ashland City Administrator, Tony Murphy and City Engineer, Randy Lund about the current water problem at the WWTP. Tony explained to us that the abandoned facility continues to discharge water from the basement sump pump to the lake. The water that is being discharged is inflow from the surrounding contaminated soils and groundwater. I have attempted to contact and left messages for Chuck Olsen since last Friday June 6, with no reply.

I have forwarded an enforcement form through the system.

cc: Gary Kulibert

CORRESPONDENCE/MEMORANDUM**State of Wisconsin**

DATE: June 16, 1997

FILE REF: 4400

TO: Ted Smith - Spooner

FROM: Jamie Dunn - Spooner

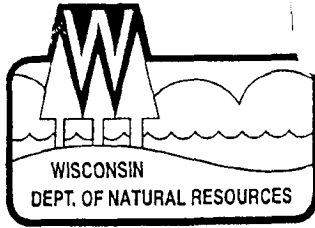
SUBJECT: Abandon City of Ashland WWTP

CONFIDENTIAL

As we have discussed, Mick Michalsen and I meet with the City Administrator of Ashland, Tony Murphy, and City Engineer, Randy Lund, Thursday June 5, to discuss the water that is surfacing near the old WWTP. Tony explained that the old plant continues to discharge water to the lake and has since its decommissioning. The water infiltrates into the basement and collects in a sump and is then pumped to the lake. All indications are that the water would be contaminated as the groundwater surrounding the building has been tested and confirmed contaminated with VOCs and PAHs.

I have attempted to contact Chuck Olsen - Brule a number of times since June 5, including E-mail and messages at the desk in Brule with no response. This is a hot issue. I have forwarded an enforcement form through the channels but this should have waters program involvement.

cc: Gary Kulibert - Rhinelander



State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES

Box 7921
101 South Webster Street
Madison, Wisconsin 537
07-7921
TELEPHONE 608-266-
2621
FAX 608-267-3579
TDD 608-267-6897

Tommy G. Thompson, Governor
George E. Meyer, Secretary

June 23, 1997

Mr. Tony Murphy, City Administrator
City of Ashland
601 Main Street
Ashland, WI 54806

SUBJECT: Old Wastewater Treatment Plant Discharge

Dear Mr. Murphy:

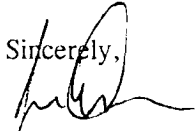
Please find enclosed a copy of the analytical data from the water sample collected from the "new" seep at the abandon WWTP facility. The analysis detected PAH and VOC contaminants present and some at high concentrations. From this information alone it is difficult to determine the source of the seep.

As we discussed on Thursday, June 5, 1997, in review of all of the information gathered to date as part of the Ashland/NSP Coal Gas Waste project, no borings have been advanced to the Copper Falls formation (artesian condition) by the Department of Natural Resources or our consultants. The only borings/wells that have been advanced to that depth were constructed by Northern Environmental for the City of Ashland and monitoring wells installed by Northern States Power. I would expect that if any of these borings or wells were acting as the breach between the artesian condition and the surface, a seep from a particular boring would manifest itself closer to the actual boring. Again, I feel a more plausible scenario is that some breach of the clay exists closer to the seep. This could be a piling that was driven as part of the original facility construction or part of the historic log mill operation, or that the water originates from the abandon piping from the abandon wastewater treatment plant.

You informed me at the June 5, meeting that water seeps into the basement of the abandon facility and collects in a sump where it is pumped to Lake Superior. It can be assumed that this water is contaminated with similar constituents as the groundwater surrounding it. Due to the proximity of the abandon facility to the area of known contamination and your comments about the strong coal tar and creosote odors concentrated in the old plant basement reported by city employees, I recommended that the City sample the effluent from the basement sump for VOCs and PAHs. No further discharges of the sump water should occur until it is confirmed to be uncontaminated through certified laboratory analysis. The City should be aware that a discharge of contaminated water to surface water would be considered a violation of section 283.31(1), Wis. Statutes, Water pollutant discharge elimination system; "the discharge of any pollutant into any waters of the state.... by any person is unlawful unless such discharge is done under a permit issued by the department under this section....". An alternate disposal method safeguarding the Lake and ensuring adequate treatment should be determined and implemented for the interim.

I have contacted Brule DNR Wastewater Engineer Chuck Olson, (715) 372-4866, and Chuck is available to discuss wastewater issues and options. Please contact Chuck with a schedule for sampling and correction of the discharge. If you have any questions on this matter please contact me at (715)635-4049.

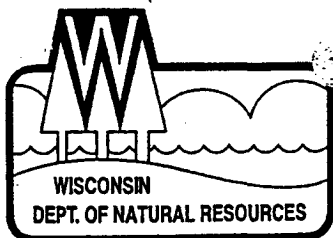
Sincerely,



Jamie Dunn
Hydrogeologist

enc:

cc: Mayor Lowell Miller - City of Ashland, 601 Main Street, Ashland WI 54806
Gary Kulibert - Rhinelander
Mick Michealsen - Spooner
Ted Smith - Spooner
Chuck Olson - Brule Area Office



State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES

Tommy G. Thompson, Governor
George E. Meyer, Secretary

Box 7921
101 South Webster Street
Madison, Wisconsin 537
07-7921
TELEPHONE 608-266-
2621
FAX 608-267-3579
TDD 608-267-6897

June 23, 1997

Mr. Tony Murphy, City Administrator
City of Ashland
601 Main Street
Ashland, WI 54806

SUBJECT: Old Wastewater Treatment Plant Discharge

Dear Mr. Murphy:

Please find enclosed a copy of the analytical data from the water sample collected from the "new" seep at the abandon WWTP facility. The analysis detected PAH and VOC contaminants present and some at high concentrations. From this information alone it is difficult to determine the source of the seep.

As we discussed on Thursday, June 5, 1997, in review of all of the information gathered to date as part of the Ashland/NSP Coal Gas Waste project, no borings have been advanced to the Copper Falls formation (artesian condition) by the Department of Natural Resources or our consultants. The only borings/wells that have been advanced to that depth were constructed by Northern Environmental for the City of Ashland and monitoring wells installed by Northern States Power. I would expect that if any of these borings or wells were acting as the breach between the artesian condition and the surface, a seep from a particular boring would manifest itself closer to the actual boring. Again, I feel a more plausible scenario is that some breach of the clay exists closer to the seep. This could be a piling that was driven as part of the original facility construction or part of the historic log mill operation, or that the water originates from the abandon piping from the abandon wastewater treatment plant.

You informed me at the June 5, meeting that water seeps into the basement of the abandon facility and collects in a sump where it is pumped to Lake Superior. It can be assumed that this water is contaminated with similar constituents as the groundwater surrounding it. Due to the proximity of the abandon facility to the area of known contamination and your comments about the strong coal tar and creosote odors concentrated in the old plant basement reported by city employees, I recommended that the City sample the effluent from the basement sump for VOCs and PAHs. No further discharges of the sump water should occur until it is confirmed to be uncontaminated through certified laboratory analysis. The City should be aware that a discharge of contaminated water to surface water would be considered a violation of section 283.31(1), Wis. Statutes, Water pollutant discharge elimination system; "the discharge of any pollutant into any waters of the state..... by any person is unlawful unless such discharge is done under a permit issued by the department under this section....". An alternate disposal method safeguarding the Lake and ensuring adequate treatment should be determined and implemented for the interim.



1795 Industrial Drive
Green Bay, WI 54302
414-469-2436
800-7-ENCHEM
FAX 414-469-8827

- Analytical Report -

Project Name : ASHLAND LAKEFRONT PROPERTY

Project Number : WIDNR9401.00

Field ID : NA-1

Lab Sample Number : 870420-001

WI DNR LAB ID : 40513270

Client : SEH

Report Date : 6/13/97

Collection Date : 6/9/97

Matrix Type : WATER

Organic Results

PAH (HPLC) LIST - SEMIVOLATILES

Prep Method: SW846 3510

Prep Date: 6/11/97

Analyst: ARO

Analyte	Result	LOD	LOQ	EQL	Units	Code	Analysis Date	Analysis Method
Acenaphthene	72	10	32		ug/L		6/12/97	SW846 8310
Acenaphthylene	18	9.2	29		ug/L	Q	6/12/97	SW846 8310
Anthracene	2.4	0.38	1.2		ug/L		6/12/97	SW846 8310
Benzo(a)anthracene	< 0.22	0.22	0.70		ug/L		6/12/97	SW846 8310
Benzo(a)pyrene	< 0.22	0.22	0.70		ug/L		6/12/97	SW846 8310
Benzo(b)fluoranthene	< 0.20	0.20	0.64		ug/L		6/12/97	SW846 8310
Benzo(g,h,i)perylene	< 0.22	0.22	0.70		ug/L		6/12/97	SW846 8310
Benzo(k)fluoranthene	< 0.16	0.16	0.51		ug/L		6/12/97	SW846 8310
Indeno(1,2,3-cd)pyrene	< 0.24	0.24	0.76		ug/L		6/12/97	SW846 8310
Chrysene	0.40	0.26	0.83		ug/L	Q	6/12/97	SW846 8310
Dibenzo(a,h)anthracene	< 0.24	0.24	0.76		ug/L		6/12/97	SW846 8310
Fluoranthene	0.78	0.22	0.70		ug/L		6/12/97	SW846 8310
Fluorene	7.9	1.2	3.6		ug/L		6/12/97	SW846 8310
1-Methylnaphthalene	190	54	170		ug/L		6/12/97	SW846 8310
2-Methylnaphthalene	170	50	160		ug/L		6/12/97	SW846 8310
Naphthalene	550	58	180		ug/L		6/12/97	SW846 8310
Phenanthrene	11	6.0	19		ug/L	Q	6/12/97	SW846 8310
Pyrene	1.2	0.20	0.64		ug/L		6/12/97	SW846 8310
9,10-Diphenylanthracene	NA				%Recov		6/12/97	SW846 8310

Organic Results

PVOC - WATER

Prep Method: SW846 3030

Prep Date: 6/12/97

Analyst: EGS

Analyte	Result	LOD	LOQ	EQL	Units	Code	Analysis Date	Analysis Method
a,a,a-Trifluorotoluene	91				%Recov		6/12/97	SW846 8020
Benzene	79	0.16	0.51		ug/L		6/12/97	SW846 8020



1795 Industrial Drive
Green Bay, WI 54302
414-469-2438
800-7-ENCHEM
Fax: 414-469-8827

- Analytical Report -

Project Name : ASHLAND LAKEFRONT PROPERTY
Project Number : WIDNR8401.00
Field ID : NA-1
Lab Sample Number : 870420-001
WI DNR LAB ID : 40613270

Client : SEH
Report Date : 6/13/97
Collection Date : 6/9/97
Matrix Type : WATER

Ethylbenzene	120	0.29	0.92	ug/l	6/12/97	SW846 8020
Methyl-tert-butyl-ether	< 0.20	0.20	0.64	ug/l	6/12/97	SW846 8020
Toluene	18	0.36	1.1	ug/l	6/12/97	SW846 8020
1,3,5-Trimethylbenzene	20	0.34	1.1	ug/l	6/12/97	SW846 8020
1,2,4-Trimethylbenzene	82	0.30	0.96	ug/l	6/12/97	SW846 8020
Xylenes, -m, -p	95	0.94	3.0	ug/l	6/12/97	SW846 8020
Xylenes, -o	79	0.21	0.67	ug/l	6/12/97	SW846 8020



Legend

Soil 0-4' Avg - Naph Naph

- ND
- 1 - 250
- 251 - 1000
- 1001 - 56000
- 56001 - 190000
- 190001 - 1000000000

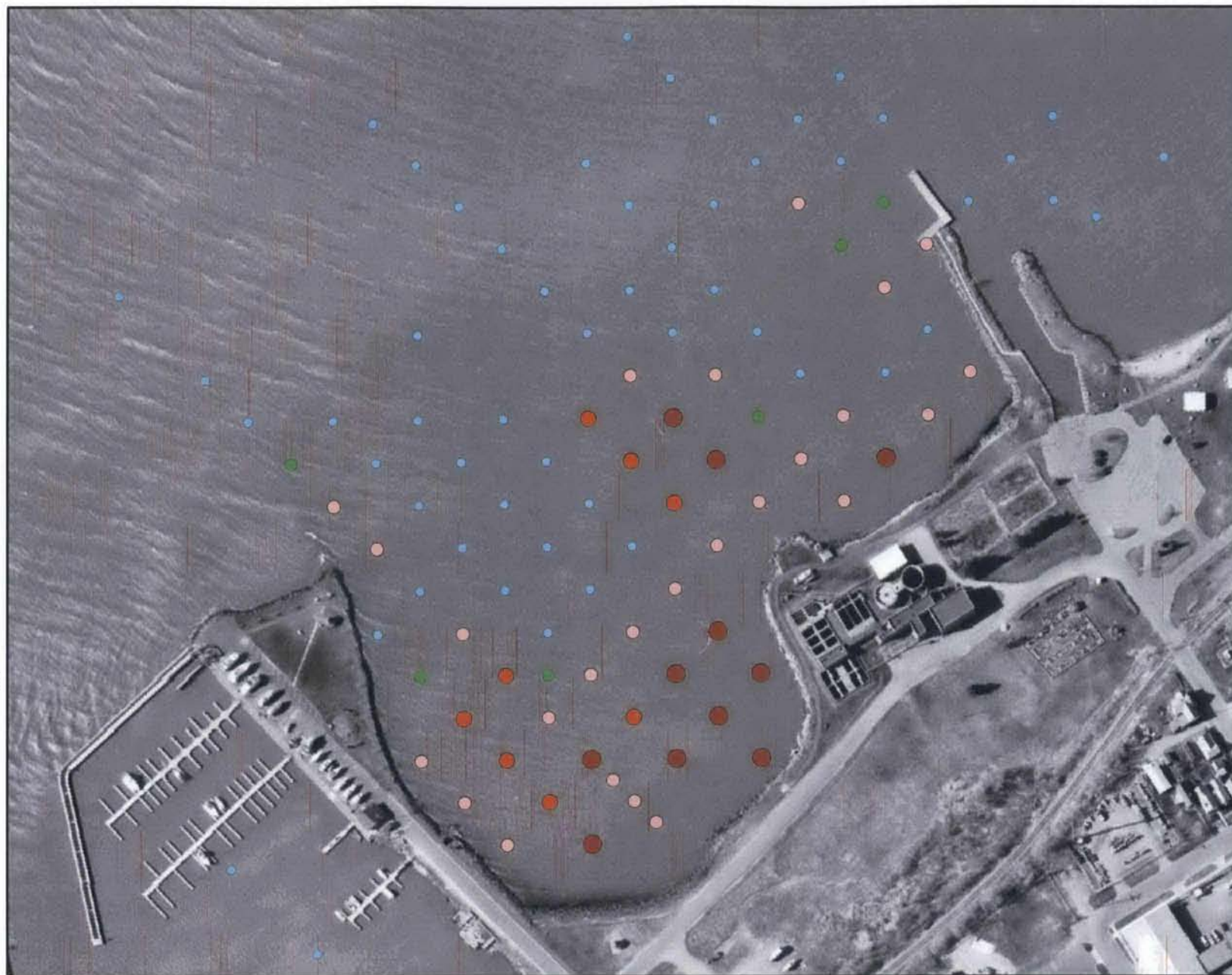


Exhibit 10

Average Naphthalene Concentrations in Sediment (ug/kg) 0 - 4 feet

0 62.5 125 250 375 500
Feet

100.

City of Ashland

the Lumber Co's Log Spur

and the Lumber Co's MCN Co

the Schneider Lumber Co's
the Mill Saw - Ashland

the Schneider Lumber Co's
the Schneider Lumber Co's
the Schneider Lumber Co's

128/101/44

100 1/2
5110 1/2

1014

COMMERCIAL DOCK &
47 FRONT ST. ASH.

ABSTRACT OF TITLE.

—TO—

All of Block 25, Ellis Division,

Lot 1, of Block 26, Ellis Division,

City of Ashland, Wisconsin.

MADE FOR Wisconsin Central Railway Company,

Continuation of Abstract of Title to the Lands Described in the Caption Hereto

United States,

TO

Julius Huntley,

Grantor

Grantee

Character of Instrument

Patent,

Date of Instrument

June 10, 1858

Date of Record

July 18, 1872

Book 4 of D Page 229

Consideration \$

Are Signatures Sealed ?

Are Signatures Properly Witnessed ?

Is Instrument Properly Acknowledged ?

Covenant if any

Description and Remarks

Conveys Frl. SW $\frac{1}{4}$ (including Lot 4), 33- 48- 4 -;

Continuation of Abstract of Title to the Lands Described in the Caption Hereto

Julius Huntly,

TO

Grantor

Edwin Ellis,

Grantee

Character of Instrument

Warranty Deed,

Date of Instrument

Jan. 1, 1856

Date of Record

Jan. 16, 1856

Book **2** of D Page **72**

Consideration \$ **300.00**

Are Signatures Sealed? **Yes.**

Are Signatures Properly Witnessed? **Yes.**

Is Instrument Properly Acknowledged? **Yes.**

Covenant if any

Description and Remarks

Conveys Lot 4, Sec. 33- 48- 4 W.;

Continuation of Abstract of Title to the Lands Described in the Caption Hereto

Edwin Ellis,

TO

Grantor

Whom It May Concern ,

Grantee

Character of Instrument

Affidavit,

Date of Instrument

May 13, 1887

Date of Record

May 16, 1887

Book 30 *of* D *Page* 106

Consideration \$

Are Signatures Sealed?

Are Signatures Properly Witnessed?

Is Instrument Properly Acknowledged?

Covenant if any

Description and Remarks

Instrument recites that first party was acquainted with Julius Huntley, the grantor in deed recorded in Vol. 2 of Deeds, page 72, and that at the time of the execution of the deed he was unmarried.

Continuation of Abstract of Title to the Lands Described in the Caption Hereto

		Character of Instrument
		Plat.
		Date of Instrument
		Date of Record
		Book of Page
		Consideration \$
		Are Signatures Sealed?
TO	Grantor	
	Grantee	

Are Signatures Properly Witnessed?

Is Instrument Properly Acknowledged?

Covenant if any

Description and Remarks

All the lots described in the caption of this abstract were platted by Henry Merryweather, surveyor, June 30, 1857, and on September 18, 1857 entered by Edwin Ellis and F. Prentice as proprietors, in the office of Register of Deeds of La Pointe County, since changed to Ashland County, under the name and style of "Bay City".

A portion of the plat known as "Bay City" was attempted to be vacated by resolution of County Board, dated Nov. 13, 1860. Vol. 1, page 2, of County Clerk's Record.

County Board adopted a resolution restoring "Bay City" as originally platted, and changed the name thereof to "Ellis Division of Ashland", Nov. 12, 1872. Vol. 1, page 57, County Clerk's Record.

Continuation of Abstract of Title to the Lands Described in the Caption Hereto

Edwin Ellis and wife Martha B.,

Grantor

TO

Alexander H. Ellis.,

Grantee

Character of Instrument

Quit Claim Deed,

Date of Instrument

August 1, 1861

Date of Record

March 29, 1862

Book **1** of D Page **156.**

Consideration \$ **3,000.00**

Are Signatures Sealed? **Yes.**

Are Signatures Properly Witnessed?

Yes.

Is Instrument Properly Acknowledged?

Yes.

Covenant if any

Description and Remarks

Conveys Lot 4, Sec. 33- 48- 4 W.

Also all right, title and interest to all lots and blocks and parts thereof, belonging to grantors in Bay City.

Continuation of Abstract of Title to the Lands Described in the Caption Hereto

Alexander H. Ellis,

TO

Grantor

Martha B. Ellis,

Grantee

Character of Instrument

Quit Claim Deed,

Date of Instrument

September 23, 1861

Date of Record

August 21, 1870

Book 3 of D Page 183

Consideration \$ 1,000.00

Are Signatures Sealed? Yes.

Are Signatures Properly Witnessed?

Yes.

Is Instrument Properly Acknowledged?

Yes.

Covenant if any

Description and Remarks

Conveys Lot 4, Sec. 33- 48- 4 W.;

Also , all right, title and interest to all lots and
blocks , or parts thereof, "belonging to us" , in Bay City.

Continuation of Abstract of Title to the Lands Described in the Caption Hereto

Edwin Ellis,

TO

The Public,

Grantor •

Grantee

Character of Instrument

Affidavit,

Date of Instrument

April 1, 1887

Date of Record

April 2, 1887

Book **25** *of* **D** *Page* **115.**

Consideration \$

Are Signatures Sealed?

Are Signatures Properly Witnessed?

Is Instrument Properly Acknowledged?

Covenant if any

Description and Remarks

Affidavit of Edwin Ellis reciting that Alexander H. Ellis, grantor in deed recorded in Vol. 3 of Deeds, Page 183, was unmarried at the time of the execution of said deed.

Continuation of Abstract of Title to the Lands Described in the Caption Hereto

Edwin Ellis,

TO

Grantor.

Whom It May Concern,

Grantee

Character of Instrument

Affidavit,

Date of Instrument

January 3, 1899

Date of Record

January 3, 1899

Book **55** of D Page **569**

Consideration \$

Are Signatures Sealed?

Are Signatures Properly Witnessed?

Is Instrument Properly Acknowledged?

Covenant if any

Description and Remarks

Instrument recites that affiant was well acquainted with Julius Huntley, the grantor named in deed recorded in Vol. 2 of Deeds, page 72, conveying SW 1/4 33- 48- 4 W., and other lands, and at the time of the execution of said deed said Julius Huntley was an unmarried man. Also, that affiant was well acquainted with Alexander H. Ellis, the grantor named in deed recorded Aug. 21, 1870, in Vol. 3 of Deeds, page 183, conveying NE SW 33- 48- 4 W., and that at the time of the execution of said deed said Alexander H. Ellis was an unmarried man.

Continuation of Abstract of Title to the Lands Described in the Caption Hereto

Edwin Ellis and Martha B. Ellis,

TO

Grantor

**L. Barber, L. Prentice, T. Poor and
F. X. Poor,**

Grantee

Character of Instrument

Warranty Deed,

Date of Instrument

October 30, 1882

Date of Record

January 23, 1883

Book **12** *of* **D** *Page* **100**

Consideration \$ **1.00**

Are Signatures Sealed? **Yes.**

Are Signatures Properly Witnessed? **Yes.**

Is Instrument Properly Acknowledged? **Yes.**

Covenant if any

Description and Remarks

Conveys all lots described in the caption of this abstract.

Continuation of Abstract of Title to the Lands Described in the Caption Hereof

L. Prentice, F. Poor, F. X. Poor,
and L. Barber,

Grantor

TO

S. S. Vaughn, Thomas Barden and
George B. Best,

Grantee

Character of Instrument

Mortgage,

Date of Instrument

November 9, 1882

Date of Record

January 23, 1883

Book 1 of M Page 279

Consideration \$ 4,000.00

Are Signatures Sealed? Yes.

Are Signatures Properly Witnessed? Yes.

Is Instrument Properly Acknowledged? Yes.

Covenant if any

Description and Remarks

Mortgages all lots described in the caption of this abstract.

Continuation of Abstract of Title to the Lands Described in the Caption Hereto

Geo. H. Best and wife Emma L.,

TO

Grantor^a

Thomas Bardon,

Grantee

Character of Instrument

Quit Claim Deed,

Date of Instrument

February 5, 1883

Date of Record

February 9, 1883

Book 12 of D Page 134

Consideration \$ 1,000.00

Are Signatures Sealed? Yes.

Are Signatures Properly Witnessed? Yes.

Is Instrument Properly Acknowledged? Yes.

Covenant if any

Description and Remarks

Conveys all lots described in the caption of this abstract.

The intention being to convey all the right of first parties in and to a mortgage given by L. Prentice and others to Vaughn, Bardon and Best, and recorded in Vol. 1 of Mortgages, page 279.

Continuation of Abstract of Title to the Land Described in the Caption Hereof

In the Matter of the Estate of
S. S. Vaughn, deceased,

TO

Grantor

Grantee

Character of Instrument

Will.

Date of Instrument

June 18, 1866

Date of Record

August 27, 1886

Book 21 of D Page 421

Consideration \$

Are Signatures Sealed?

Are Signatures Properly Witnessed?

Is Instrument Properly Acknowledged?

Covenant if any

Description and Remarks

Gives and bequeaths to his wife Emeline E. Vaughn all of the real estate belonging to testator, and appoints Emeline E. Vaughn sole executrix and administratrix of this his last will and testament.

Will duly allowed and admitted to probate March 2, 1886 ,
by an order of the County Court of Ashland County.

Continuation of Abstract of Title to the Lands Described in the Caption Hereto

In The Matter of the Last Will and
Testament of Emeline E. Vaughn
Marquis, deceased.

TO

Grantor

Grantee

Character of Instrument

Will.

Date of Instrument

December 31, 1900

Date of Record

July 30, 1901

Book 73 of D Page 148

Consideration \$

Are Signatures Sealed?

Are Signatures Properly Witnessed?

Is Instrument Properly Acknowledged?

Covenant if any

Description and Remarks

Devises and bequeaths all the rest and residue of her real
estate to John H. Burch and J. W. Clarke , as executors and
trustees, with power to lease, sell or dispose of same.

Will proved and allowed by order and decree of the County
Court of Ashland County, Wis. , dated March 5, 1901 .

Continuation of Abstract of Title to the Lands Described in the Caption Hereto

In the Matter of the Estate of
Emeline E. Vaughn-Marquis, deceased,

TO

Grantor

Grantee

Character of Instrument

Order,

Date of Instrument

March 16, 1901

Date of Record

January 21, 1902

Book 73 of D Page 342

Consideration \$

Are Signatures Sealed?

Are Signatures Properly Witnessed?

Is Instrument Properly Acknowledged?

Covenant if any

Description and Remarks

Order of the County Court of Ashland County, Wis., appointing
J. W. Clarke and John H. Burch administrators of the estate
of said deceased.

Continuation of Abstract of Title to the Land Described in the Captioned Record

Thomas Bardon (individually), and
J. W. Clarke and John H. Burch, as
Executors of the Estate of Emeline E.
Vaughn-Marquis, widow and sole heir of
B. S. Vaughn,

Grantor

TO

L. Barber, L. Prentice, F. Poor and
F. X. Poor,

Grantee

Character of Instrument
Satisfaction,

Date of Instrument
July 30, 1901

Date of Record
August 8, 1901

Book 25 of M Page 24

Consideration \$

Are Signatures Sealed? Yes.

Yes.

Are Signatures Properly Witnessed?

Yes.

Is Instrument Properly Acknowledged?

Covenant if any

Description and Remarks

Satisfies mortgage recorded January 23, 1883, in Vol. 1 of
Mortgages, page 279.

Continuation of Abstract of Title to the Lands Described in the Caption Hereto

Lucy A. Barber,

Grantor

TO

Warren L. Barber,

Grantee

Character of Instrument

Power of Attorney,

Date of Instrument

October 27, 1882

Date of Record

March 29, 1884

Book 16 of D Page 174

Consideration \$

Are Signatures Sealed? Yes.

Are Signatures Properly Witnessed? Yes.

Is Instrument Properly Acknowledged? Yes.

Covenant if any

Description and Remarks

Grants power and authority to sell and convey real estate;

Continuation of Abstract of Title to the Lands Described in the Caption Hereto

**Lara Prentice, F. K. Peor and Tirzah
Peor,**

TO

Grantor

Warren L. Barber,

Grantee

Character of Instrument

Power of Attorney,

Date of Instrument

October 30, 1882

Date of Record

March 29, 1884

Book **16** *of* **D** *Page* **176**

Consideration \$

Are Signatures Sealed? **Yes.**

Are Signatures Properly Witnessed?

Yes.

Is Instrument Properly Acknowledged?

Yes.

Covenant if any

Description and Remarks

Grants power and authority to sell and convey real estate.

F. X. Poor, T/ Poor, L. Prentice and
L. Barber, by W. L. Barber, their
Attorney-in-fact,

Grantor

TO

Charles H. Kingman,

Grantee

Character of Instrument

Warranty Deed,

Date of Instrument

December 31, 1883

Date of Record

December 31, 1883

Book 15 of D Page 168

Consideration \$ 5,000.00

Are Signatures Sealed? Yes.

Are Signatures Properly Witnessed? Yes.

Is Instrument Properly Acknowledged? Yes.

Covenant if any Except mortgage held by Vaughn & Bardon.

Description and Remarks

Conveys all lots described in the caption of this abstract.

Continuation of Abstract of Title to the Lands Described in the Caption Hereto

Charles H. Kingman,

TO

Frank M. Wood,

Grantor

Grantee

Character of Instrument

Quit Claim Deed,

Date of Instrument

January 8, 1884

Date of Record

January 14, 1884.

Book 16 of D Page 59

Consideration \$ 3,000.00

Are Signatures Sealed? Yes.

Are Signatures Properly Witnessed? Yes.

Is Instrument Properly Acknowledged? Yes.

Covenant if any

Description and Remarks

Conveys all lots described in the caption of this abstract.

Continuation of Abstract of Title to the Lands Described in the Caption Herein

Frank M. Wood and wife Maroia E.,

Grantor

TO

Charles H. Kingman,

Grantee

Character of Instrument

Quit Claim Deed ,

Date of Instrument

July 28, 1884

Date of Record

August 26, 1884

Book 15 of D Page 302

Consideration \$ 1.00 etc.

Are Signatures Sealed ? Yes.

Are Signatures Properly Witnessed ? Yes.

Is Instrument Properly Acknowledged ? Yes.

Covenant if any

Description and Remarks

Conveys all lots described in the caption of this abstract.

Continuation of Abstract of Title to the Lands Described in the Caption Hereto

John Rice and James Rice, co-partners
as John Rice & Bro.,

Plaintiffs,

Grantors

VS. ~~TX~~

Lucy Barber, Lura Prentice, Francis
Poor, and Tirzah Poor, co-partners
as Michigan Lumber Company; Frank M.
Wood, A. A. Libbey, A. M. McNeil,
C. P. Libbey; Doggett, Bassett & Hill
Company, Chicago White Lead & Oil Com-
pany, Joseph Monk, August Grossenbeck,
Rudolph Grossenbeck, Thomas P. Wilson,
Charles Rogers and North Wisconsin
Lumber Company,

Defendants.

Are Signatures Properly Witnessed?

Is Instrument Properly Acknowledged?

Covenant if any

Character of Instrument

Lis Pendens,

Date of Instrument

December 22, 1884

Date of Record

December 23, 1884

Book 1 of L P Page 84

Consideration \$

Are Signatures Sealed?

Description and Remarks

Notice of pendency of action to foreclose mechanics' lien
on all lots described in the caption of this abstract.

Continuation of Abstract of Title to the Lands Described in the Caption Hereto

Thomas P. Wilson and Charles S.

Rogers, partners as Wilson & Rogers,

Plaintiffs,

Grantor

VS. ¹⁰

L. Barber, L. Prentice, T. Poor, F. X. Poor, partners as Michigan Lumber Co.; Ormsby Lime Co., Isaac Will, A. A. Libby, Wm. Bent, Daggett, Bassett and Hill Company, Charles H. Kingman, A. McNeil, Chicago White Lead & Oil Co., August Grossenback, P. Libby, Julian M. Will, Joseph Monk, Tesson Sterne, Moses W. Gray, Rudolph Grossenback, John Rice, North Wisconsin Lumber Company, Thomas Bardon, S.S. Vaughn and Frank M. Wood, Defendants.

Are Signatures Properly Witnessed?

Covenant if any

Description and Remarks

Notice of pendency of action to foreclose a mechanics' lien
filed Nov. 3, 1883, on -

Water Block 25, Ellis Division of Ashland, in frl. Sec.
33- 48- 4 W.;

Character of Instrument

Lis Pendens,

Date of Instrument

January 14, 1885

Date of Record

January 14, 1885

, Book 1 of L P Page 84

Consideration \$

Are Signatures Sealed?

Continuation of Abstract of Title to the Lands Described in the Caption

Charles H. Kingman and wife Eliza-
beth P. ,

TO

Grantor

Charles C. Collins,

Grantee

Character of Instrument

Quit Claim Deed,

Date of Instrument

December 1, 1884

Date of Record

February 7, 1885

Book 17 of D Page 35

Consideration \$ 2,000.00

Are Signatures Sealed? Yes.

Are Signatures Properly Witnessed? Yes.

Is Instrument Properly Acknowledged? Yes.

Covenant if any Subject to mortgage and liens amounting to \$6,000.

Description and Remarks

Conveys all lots described in the caption of this abstract.

Continuation of Abstract of Title to the Land Described in the Caption Herein

G. L. Haring, as Agent for C. C.
Collins,

Grantor

TO

Richmond D. Mallet and W. R. Sutherland,

Grantee

Character of Instrument

Option,

Date of Instrument

March 24, 1887

Date of Record

March 26, 1887

Book 25 of D Page 100

Consideration \$ 30,000.00

Are Signatures Sealed? . Yes.

Are Signatures Properly Witnessed? . Yes.

Is Instrument Properly Acknowledged? Yes.

Covenant if any

Description and Remarks

Option for 15 days in which to purchase the property known as the
Michigan Lumber Company's property at Ashland, Wis.

Continuation of Abstract of Title to the Lands Described in the Caption Herein

Richmond D. Mallett and W. R. Sutherland,
land,

Grantor

TO

C. C. Collins,

Grantee

Character of Instrument

Quit Claim Deed,

Date of Instrument

March 29, 1887

Date of Record

March 29, 1887

Book **19** of **D** Page **197**

Consideration \$ **1.00**

Are Signatures Sealed? • **Yes.**

Are Signatures Properly Witnessed? **Yes.**

Is Instrument Properly Acknowledged? **Yes.**

Covenant if any

Description and Remarks

Conveys the property known as the Michigan Lumber Company's property. It being the intention hereby to relinquish and release all claim to said property by reason of a certain contract for the sale thereof made to the parties of the first part by C. L. Haring for and as the agent of the party of the second part, said contract being dated March 24, 1887, and filed in the Register of Deeds' office March 26, 1887.

Continuation of Abstract of Title to the Lands Described in the Caption Herein

Wisconsin Central Railroad Company,
and John A. Stewart and Edwin H. Abbot,
Trustees, all by Chas. L. Colby, their
Attorney-in-fact,

Grantor

TO

Charles C. Collins,

Grantee

Character of Instrument

Quit Claim Deed,

Date of Instrument

December 10, 1887

Date of Record

January 9, 1888

Book 19 of D Page 355

Consideration \$ 1.00 etc.

Are Signatures Sealed? Yes.

Are Signatures Properly Witnessed? Yes.

Is Instrument Properly Acknowledged? Yes.

Covenant if any

Description and Remarks

Conveys all that part of Lots 13, 14, 15 and 16, Block 32,
Lots 19, 20, 21, 22, 23 and 24, Block 33, and Blocks 24 and 34,
Ellis Division of Ashland, which lies northwesterly of a line
drawn parallel with and 50 feet distant northwesterly from
the center line of the Bay Shore track, as well as all riparian
rights or privileges annexed or appurtenant to the premises,
and all riparian rights north of Block 33 on Prentice Street
owned by said grantor.

ILWACOES' VIT M. CHEN. P. COJN' MALL
AND JOHN V. BACWELL AND JOHN P. VAPOR
MPCONET. CENCLAT HUTTLOW COMBENT

CHAS. C. COLLINS

Continuation of Abstract of Title to the Land Described in the Caption Hereof

Charles C. Collins, widower,

Grantor

TO

W. R. Sutherland and Wm. M. Tomkins,

Grantee

Character of Instrument

Warranty Deed,

Date of Instrument

February 3, 1888

Date of Record

February 9, 1888

Book 34 of D Page 173

Consideration \$ 25,500.00

Are Signatures Sealed? Yes.

Are Signatures Properly Witnessed? Yes.

Is Instrument Properly Acknowledged? Yes .

Covenant if any

Description and Remarks

Conveys all lots described in the caption of this abstract;

Also, all right, title, interests and property conveyed
by the Wisconsin Central Railroad Company to Chas. C. Collins,
by deed recorded Jan. 9, 1888, in Vol. 19 of Deeds, Page 355.

Except right of way of W. C. R. R.

Continuation of Abstract of Title to the Land Described in the Caption Herein

Wm. M. Tonkins and W. E. Sutherland,

Grantor

TO

Chas. C. Collins,

Grantee

Character of Instrument

Mortgage,

Date of Instrument

February 3, 1888

Date of Record

February 9, 1888

Book 9 of M Page 2

Consideration \$ 20,000.00

Are Signatures Sealed? Yes.

Are Signatures Properly Witnessed?

Yes.

Is Instrument Properly Acknowledged?

Yes.

Covenant if any

Description and Remarks

Conveys all lots described in the caption of this abstract .

C. C. Collins,

TO

Chas. A. Mair,

Grantor *

Grantee

Character of Instrument

Assignment,

Date of Instrument

September 30, 1889

Date of Record

September 27, 1898

Book **11** of M Page **159**

Consideration \$ Value,

Are Signatures Sealed? Yes.

Are Signatures Properly Witnessed?

Yes.

Is Instrument Properly Acknowledged?

Yes.

Covenant if any

Description and Remarks

**Assigns mortgage executed by W. M. Tomkins and W. R. Sutherland,
and recorded Feb. 9, 1888, in Vol. 9 of Mortgages, page 2.**

CHARLES A. MAIR,

TO

Grantor

W. R. Sutherland and wife,

Grantee

Character of Instrument

Satisfaction,

Date of Instrument

January 22, 1890

Date of Record

July 9, 1898

Book **15** *of* **M** *Page* **456**

Consideration \$

Are Signatures Sealed? **Yes.**

Are Signatures Properly Witnessed? **Yes.**

Is Instrument Properly Acknowledged? **Yes.**

Covenant if any

Description and Remarks

Satisfies mortgage recorded Feb. 9, 1888, in Vol. 9 of
Mortgages, page 2.

Continuation of Abstract of Title to the Land Described in the Caption Herein

W. B. Sutherland and wife Jane,

Grantor

TO

Alexander P. Wood,

Grantee

Character of Instrument

Warranty Deed,

Date of Instrument

May 31, 1889

Date of Record

July 5, 1889

Book **41** of D Page **70**

Consideration \$ **10,000.00**

Are Signatures Sealed? **Yes.**

Are Signatures Properly Witnessed?

Yes.

Is Instrument Properly Acknowledged?

Yes.

Covenant if any

Description and Remarks

Conveys Und. 1/4 of all lots described in the caption of this abstract.

Also, Und. 1/4 in the rights, title and interest in the property conveyed by Wisconsin Central Railroad Company to Chas. C. Collins, dated Dec. 10, 1887, and recorded Jan. 9, 1888, in Vol. 19 of Deeds, page 355.

Except right of way of W. C. R. R.

W. M. Tomkins and wife Elizabeth A.,
W. R. Sutherland and wife Jane, and
A. P. Wood and wife Margaret,

TO

Grantor

Charles A. Mair,

Grantee

Character of Instrument

Mortgage,

Date of Instrument

December 28, 1889

Date of Record

January 23, 1890

Book 13 of M Page 171

Consideration \$ 7,500.00

Are Signatures Sealed? Yes.

Are Signatures Properly Witnessed?

Yes.

Is Instrument Properly Acknowledged?

Yes.

Covenant if any

Description and Remarks

Mortgages all lots described in the caption of this abstract.
Excepting the right of way of Wisconsin Central R.R. Co.

Grantor of the land described in the caption hereof

Charles A. Mair,

TO

Grantor

W. M. Tomkins and wife Elizabeth A.,
W. B. Sutherland and wife Jane, and
A. P. Wood and wife Margaret,

Grantee

Character of Instrument

Satisfaction,

Date of Instrument

September 8, 1897

Date of Record

September 9, 1897

Book 15 of M Page 403

Consideration \$

Are Signatures Sealed? Yes.

Are Signatures Properly Witnessed? Yes.

Is Instrument Properly Acknowledged? Yes.

* Covenant if any

Description and Remarks

Satisfies mortgage recorded Jan. 23, 1890, in Vol. 13 of
Mortgages, page 171.

Alexander P. Wood and wife Margaret,

TO

Grantor

W. R. Sutherland,

Grantee

Character of Instrument

Warranty Deed,

Date of Instrument

August 16, 1892

Date of Record

August 17, 1892

Book 51 of D Page 80

Consideration \$ 10,000.00

Are Signatures Sealed? Yes.

Are Signatures Properly Witnessed? Yes.

Is Instrument Properly Acknowledged? Yes.

Covenant if any

Description and Remarks

Conveys the undivided 1/4 of all lots described in the caption of this abstract;

Excepting the right of way of the Wisconsin Central Railroad;

INDEX OF INSTRUMENTS

CHRONOLOGICAL INDEX OF INSTRUMENTS

W. R. Sutherland and wife Jane,

TO

Grantor

Sutherland Lumber Company,

Grantee

Character of Instrument

Quit Claim Deed,

Date of Instrument

January 28, 1898

Date of Record

January 28, 1898

Book 39 of D Page 558

Consideration \$ 30,000.00

Are Signatures Sealed? Yes.

Are Signatures Properly Witnessed? Yes.

Is Instrument Properly Acknowledged? Yes.

Covenant if any

Description and Remarks

Conveys undivided 1/2 of all lots described in the caption of this abstract.

Also, undivided one-half interest in the rights, title and interests in the property conveyed by Wisconsin Central Railroad Company to Chas. C. Collins, by deed dated Dec. 10, 1887, and recorded Jan. 9, 1888, in Vol. 19 of Deeds, page 355.

W. R. Sutherland,

Plaintiff,

Grantor

vs. ~~to~~

Ashland County , et al,

Defendants.

Grantee

Character of Instrument

Lis Pendens,

Date of Instrument

August 16, 1895

Date of Record

August 16, 1895

Book 2 of L P Page 240

Consideration \$

Are Signatures Sealed?

Are Signatures Properly Witnessed?

Is Instrument Properly Acknowledged?

Covenant if any

Description and Remarks

Notice of the pendency of an action to set aside and cancel taxes for 1891, and tax certificates upon tax sale for 1892, upon all lots described in the caption of this abstract, except Lot 1, Block 26, Ellis Division of Ashland;

Abstract of Abstract of Deeds of Deeds in the Caption Herein
A. J. Cass and Frank Morrison, co-
partners as Cass & Morrison; Frank
Morrison, William McCardle and P. A.
Braff, **Plaintiffs,**

Grantor

vs. ~~20~~

W. R. Sutherland, Jane Sutherland,
E. R. Sutherland, and Sutherland
Lumber Company,

Defendants,
Grantee

Character of Instrument

Lis Pendens,

Date of Instrument

February 27, 1896

Date of Record

February 27, 1896

Book 2 of L P Page 282

Consideration \$

Are Signatures Sealed?

Are Signatures Properly Witnessed?

Is Instrument Properly Acknowledged?

Covenant if any

Description and Remarks

Notice of pendency of an action to set aside and cancel quit-
claim deed recorded January 28, 1895, in Vol. 39 of Deeds,
page, 558, covering undivided 1/2 of all lots described in the
caption of this abstract.

B. J. Bowers,

Plaintiff,

Grantor

VS.

W. R. Sutherland, Jane Sutherland,
and Sutherland Lumber Company,

Defendants.

Grantee

Character of Instrument

Is Pending,

Date of Instrument

April 15, 1896

Date of Record

April 15, 1896

Book 2 of L P Page 284

Consideration \$

Are Signatures Sealed?

Are Signatures Properly Witnessed?

Is Instrument Properly Acknowledged?

Covenant if any

Description and Remarks

Notice of pendency of an action to set aside and cancel quit-
claim deed recorded January 28, 1895, in Vol. 39 of Deeds,
page 558, covering undivided 1/2 of all lots described in the
caption of this abstract.

W. M. Tomkins and wife Elizabeth,

TO

Grantor

The Ashland Realty Company,

Grantee

Character of Instrument

Quit Claim Deed,

Date of Instrument

September 13, 1894

Date of Record

December 26, 1895

Book 39 of D Page 628

Consideration \$ 15,000.00

Are Signatures Sealed? Yes.

Are Signatures Properly Witnessed? Yes.

Is Instrument Properly Acknowledged? Yes.

Covenant if any

Description and Remarks

Conveys all lots described in the caption of this abstract,
and all the rights, title and interests and property conveyed
by deed of the Wisconsin Central Railroad Company to Chas. C.
Collins, recorded Jan. 9, 1888, in Vol. 19 of Deeds, page 355.

Ashland Realty Company,

Plaintiff, *

Grantor

VS. ^{TO}

S. S. Fifield, as Receiver of the
Sutherland Lumber Co.; A. J. Cass,
Frank Morrison, E. J. Bowers, Wm.
McCardle, and P. A. Braff,
Defendants. Grantee

Character of Instrument

Lis Pendens,

Date of Instrument

October 15, 1896

Date of Record

October 14, 1896

Book **2** of L P Page **314**

Consideration \$

Are Signatures Sealed?

Are Signatures Properly Witnessed?

Is Instrument Properly Acknowledged?

Covenant if any

Description and Remarks

Notice of the pendency of an action for partition, involving
all lots described in the caption of this abstract.

A. J. Cass and Frank Morrison, Pliffs.,
 vs. W. R. Sutherland, Defendant;
 Frank Morrison vs. W. R. Sutherland;
 William McCardle, vs. W. R. Sutherland;
 P. A. Braff vs. W. R. Sutherland;
 P. A. Braff vs. W. R. Sutherland;
 Thomas Anderson vs. W. R. Sutherland;
 A. J. Cass and Frank Morrison, co-partners
 as Cass & Morrison; Frank Morrison,
 William McCardle, P. A. Braff, et al,
 vs.
 W. R. Sutherland, Jane Sutherland,
 Sutherland Lumber Company, and E. R.
 Sutherland, Defendants.

Character of Instrument

Certificate,

Date of Instrument

May 28, 1898

Date of Record

June 3, 1898

Book 2 of L P Page 400

Consideration \$ **7,735.00**

Are Signatures Sealed?

Grantee

Are Signatures Properly Witnessed?

Is Instrument Properly Acknowledged?

Covenant if any

Description and Remarks

Sheriff's Certificate of Sale on several executions;

Date of Sale, May 28, 1898.

To whom sold: A. W. Sanborn.

Covers all of Block 25, in Ellis Division of Ashland.

Thomas Anderson vs. W. R. Buchanan;
 P. A. Pratt vs. W. R. Buchanan;
 P. A. Pratt vs. W. R. Buchanan;
 William McGee vs. W. R. Buchanan;
 Frank Morrison vs. W. R. Buchanan;
 vs. W. R. Buchanan;
 Defendant;

Certificate

Character of Instrument

Agreement,

Date of Instrument

May 31, 1898

Date of Record

June 1, 1898

Book 55 of D Page 477

Consideration \$ 7,735.00

Are Signatures Sealed? Yes.

Grantor

A. W. Sanborn,

TO

Pope Lumber Company,

Grantee

Are Signatures Properly Witnessed?

Yes.

Is Instrument Properly Acknowledged?

Yes.

Covenant if any

Description and Remarks

Agreement to convey upon acquiring title all of Block 25 in

Ellis Division of Ashland;

In case title is not perfected, first party to return all

moneys paid to him by second party.

DEED OF VENDOR CO. LTD.
M. F. SHERBURN & SONS LTD.

DEED OF VENDOR

DEED

DEED OF VENDOR

The Ashland Realty Company, by W. M.
Tomkins, President, and W. B. Phillips,
Secretary, with corporate seal,

TO Grantor

E. C. Pope and W. G. Davis,

Grantee

Character of Instrument

Warranty Deed,

Date of Instrument

October 25, 1896

Date of Record

November 12, 1896

Book 67 of D Page 18

Consideration \$ 10,000.00

Are Signatures Sealed? Yes.

Are Signatures Properly Witnessed?

Yes.

Is Instrument Properly Acknowledged?

Acknowledgment defective.

Covenant if any

Description and Remarks

Conveys Lot 1, Block 26, Ellis Division of Ashland;

Also all the riparian rights and privileges annexed and
appurtenant to said premises, and right of way thereto, which
was awarded by the commissioners in partition on Oct. 21, 1896.

Note;)- Acknowledgment reads "Personally came before me W. M.
Tomkins and W. M. Phillips," instead of W. B. Phillips .

Continuation of Abstract of Title to the Lands Described in the Caption Hereto

The Ashland Realty Company, by W. M.
Tomkins, President, and W. B. Phillips,
Secretary, with corporate seal,

TO

Grantor

R. C. Pope and W. G. Davis,

Grantee

Character of Instrument

Warranty Deed,

Date of Instrument

October 26, 1896

Date of Record

September 28, 1898

Book 63 of D Page 220

Consideration \$ 10,000.00

Are Signatures Sealed? Yes.

Are Signatures Properly Witnessed?

Yes.

Is Instrument Properly Acknowledged?

Yes.

Covenant if any

Description and Remarks

Conveys Lot 1, Block 26, in Ellis Division of the City of Ashland;
with all the riparian rights and privileges annexed to said
premises and right of way thereto, which was awarded by the
Commissioners in partition Oct. 21, 1896.

Note:- Re-recorded to correct error in acknowledgment as re-
corded in Vol. 67 of Deeds, page 18;

R. C. Pope, and W. G. Davis and
wife Jemima ,

TO Grantor

Ashland Realty Company,

Grantee

Character of Instrument

Mortgage,

Date of Instrument

October 26, 1896

Date of Record

November 12, 1896

Book 19 of M Page 11

Consideration \$ 8,000.00

Are Signatures Sealed? Yes.

Are Signatures Properly Witnessed? Yes.

Is Instrument Properly Acknowledged? Yes.

Covenant if any

Description and Remarks

Conveys Lot 1, Block 26, Ellis Division of Ashland.

Ashland Realty Company, by W. M.
Tomkins, President, and W. B. Phil-
lips, Sec'y., with (seal)

TO Grantor

R. C. Pope, W. G. Davis and Jemima
Davis,

Grantee

Character of Instrument

Satisfaction,

Date of Instrument

September 27, 1898

Date of Record

September 28, 1898

Book 15 of M Page 472

Consideration \$

Are Signatures Sealed? Yes.

Are Signatures Properly Witnessed? Yes.

Is Instrument Properly Acknowledged? Yes.

Covenant if any

Description and Remarks

Satisfies mortgage recorded November 12, 1896, in Vol. 19
of Mortgages, page 11.

R. C. Pope and wife Katie S., and
W. G. Davis and wife Jemima,

TO Grantor

Pope Lumber Company,

Grantee

Character of Instrument

Warranty Deed,

Date of Instrument

November 9, 1897

Date of Record

November 20, 1897

Book 63 of D Page 165

Consideration \$ 5,000.00

Are Signatures Scaled? Yes.

Are Signatures Properly Witnessed? Yes.

Is Instrument Properly Acknowledged? Yes.

Covenant if any Except mortgage to the Ashland Realty Co. for \$6,380.60.

Description and Remarks

Conveys Lot 1, Block 26, Ellis Division of the City of Ashland;;
with all the riparian rights and privileges annexed to said
premises and right of way thereto ;

Pope Lumber Co., by W. G. Davis, Pres.,
and R. C. Pope, Secty., with corpor-
ate seal,

TO

Grantor

Eva Airis,

Grantee

Character of Instrument

Mortgage,

Date of Instrument

September 27, 1898

Date of Record

September 28, 1898

Book 19 of M Page 119

Consideration \$ 13,000.00

Are Signatures Sealed? Yes.

Are Signatures Properly Witnessed? Yes.

Is Instrument Properly Acknowledged? Yes.

Covenant if any

Description and Remarks

Mortgages all lots described in the caption of this abstract.

In The Matter of the Estate of
Eva F. Airis, deceased,

TO

Grantor

Grantee

Character of Instrument

Order,

Date of Instrument

December 4, 1900

Date of Record

February 28, 1901

Book **73** of D Page **20**

Consideration \$

Are Signatures Sealed ?

Are Signatures Properly Witnessed ?

Is Instrument Properly Acknowledged ?

Covenant if any

Description and Remarks

Final order of the County Court of Eau Claire County, Wis.,
assigning to Adam J. Airis, the surviving husband and sole
heir at law of said deceased, all the residue of the personal
estate of said deceased.

Adam J. Airis,

TO

Grantor

Pope Lumber Company,

Grantee

Character of Instrument

Satisfaction,

Date of Instrument

January 9, 1901

Date of Record

February 28, 1901

Book **12** *of* **M** *Page* **613**

Consideration \$

Are Signatures Sealed? **Yes.**

Are Signatures Properly Witnessed? **Yes.**

Is Instrument Properly Acknowledged? **Yes.**

Covenant if any

Description and Remarks

Satisfies mortgage recorded September 28, 1898, in Vol. 19
of Mortgages, page 119.

Pope Lumber Company, by W. G. Davis,
President, and R. C. Pope, Secy.,
with corporate seal,

TO

Grantor

Wisconsin Central Railroad Company,

Grantee

Character of Instrument

Easement,

Date of Instrument

October 5, 1898

Date of Record

October 13, 1898

Book 55 of D Page 538

Consideration \$

Are Signatures Sealed? Yes.

Are Signatures Properly Witnessed? Yes.

Is Instrument Properly Acknowledged? Yes.

Covenant if any

Description and Remarks

Grants full license and permission to occupy in perpetuity a strip, belt or piece of land 25 feet wide, for the construction, maintenance and operation of a spur track upon, over and across all lots described in the caption of this abstract.

Abandonment of and removal of said track from said land shall absolutely determine the rights of said licensee.

Pope Lumber Company, by R. C. Pope,
President, and Wm. G. Allen, Sec'y.,
with corporate seal,

Grantor

TO

Wisconsin Central Railroad Company,

Grantee

Character of Instrument

Easement,

Date of Instrument

January 28, 1899

Date of Record

February 1, 1899

Book 55 of D Page 587

Consideration \$

Are Signatures Sealed? Yes.

Are Signatures Properly Witnessed? Yes.

Is Instrument Properly Acknowledged? Yes.

Covenant if any

Description and Remarks

Grants full license and permission to occupy, in perpetuity,
a strip, belt or piece of land 25 feet wide, for the construc-
tion, maintenance and operation of a spur track upon, over and
across all lots described in the caption of this abstract.

Abandonment of and removal of said track from said land
shall absolutely determine the rights of said licensee.

Wilber G. Davis, as Trustee in bankruptcy of the Pope Lumber Company,

TO Grantor

John Schroeder Lumber Company,

Grantee

Character of Instrument

Deed,

Date of Instrument

January 10, 1901

Date of Record

February 28, 1901

Book 75 of D Page 23

Consideration \$ 30,000.00

Are Signatures Sealed? Yes.

Are Signatures Properly Witnessed? Yes.

Is Instrument Properly Acknowledged? Yes.

Covenant if any

Description and Remarks

Conveys all lots described in the caption of this abstract.

Instrument recites that by order of the District Court of the United States for the Western District of Wisconsin, dated Dec. 6, 1900, Wilber G. Davis was appointed Trustee of the Pope Lumber Company, bankrupt, and such proceedings were thereafter had that, after due notice thereof, the premises described herein were, on January 10, 1901, sold at public sale by said Trustee to the John Schroeder Lumber Company for \$30,000.00, they being the highest bidder therefor, and entitled to a deed for said real estate.

Continuation of Abstract of Title to the Lands Described in the Caption Herein

In The Matter of the Pope Lumber
Company, bankrupt.

TO

Grantor

*

*

Grantee

Character of Instrument

Order.

Date of Instrument

January 15, 1901

Date of Record

February 28, 1901

Book 73 of D Page 25

Consideration \$

Are Signatures Sealed?

Are Signatures Properly Witnessed?

Is Instrument Properly Acknowledged?

Covenant if any

Description and Remarks

Order of the District Court of the United States for the Western District of Wisconsin, ratifying and confirming the sale by Wilber G. Davis, Trustee, of the property of said bankrupt at Ashland, Wis., to the John Schroeder Lumber Company, and directing said Trustee to deliver a deed of conveyance of same; also that said Trustee immediately pay and discharge and have satisfied of record all legal and valid liens and incumbrances upon and to said real estate.

Note:- No certificate.

Continuation of Abstract of Title to the Lands Described in the Caption Herein

John Schroeder Lumber Co., by John
Schroeder, President, and Fred J.
Schroeder, Secretary,
With corporate seal,

TO Grantor

Wisconsin Central Railway Company,

Grantee

Character of Instrument

Easement,

Date of Instrument

August 28, 1905

Date of Record

August 30, 1905

Book 89 of D Page 289

Consideration \$ Value,

Are Signatures Sealed? Yes.

Are Signatures Properly Witnessed? Yes.

Is Instrument Properly Acknowledged? Yes.

Covenant if any

Description and Remarks

Grants full license and permission to forthwith enter into and upon, and henceforth occupy in perpetuity, a strip, belt or piece of land 17 feet in width, for the construction, maintenance and operation of a spur track upon, over and across, Lots 1, 2, 3, 4, 5 & 6, in Block 25, Ellis Division, Ashland;

It is agreed that upon the abandonment of said premises by said licensee, its rights in respect to such part of said land so abandoned shall absolutely determine.

Grantor releases grantee from any claim for loss or damage to any property along said spur track.

Continuation of Abstract of Title to the Lands Described in the Caption Hereto

Wisconsin Central Railroad Company,
by Gardner Colby, President, and
Frank W. Webster, Secretary,
With corporate seal,

TO Grantor

George T. Bigelow and John A. Stewart,
Trustees,

Grantee

Character of Instrument

Mortgage,

Date of Instrument

July 1, 1871

Date of Record

September 16, 1871

Book 3 of D Page 333

Consideration \$ 1.00 etc.

Are Signatures Sealed? Yes.

Are Signatures Properly Witnessed? No witness to Gardner Colby.

Is Instrument Properly Acknowledged? Yes.

Covenant if any

Description and Remarks

Mortgages all lands and sections of land which first party now has or may at any time hereafter acquire, or in any way become entitled to, lying between Stevens Point and Lake Superior, including all right of way of said railroad; said first party, at all times, to be at liberty to sell and convey any of said lands, and upon sale thereof the Trustees shall release the land so sold from the lien of this mortgage.

Said Trustees shall have full power to appoint a treasurer, and an agent or attorney to execute conveyances of lands sold, and to act generally in their behalf in respect thereto; and to remove such agent and to appoint another in his place.

John A. Stewart and William L. Bull,
as Trustees under the mortgage of the
Wisconsin Central Railroad Company,

TO Grantor

Wisconsin Central Railroad Company,

Grantee

Character of Instrument

Satisfaction,

Date of Instrument

November 14, 1904

Date of Record

November 18, 1904

Book 30 of M Page 290

Consideration \$

Are Signatures Sealed? Yes.

Are Signatures Properly Witnessed? Yes.

Is Instrument Properly Acknowledged? Yes.

Covenant if any

Description and Remarks

Satisfies mortgage recorded Sept. 16, 1871, in Vol. 3 of
Deeds, page 333.

Continuation of Abstract of Title to the Lands Described in the Caption Hereto

Frank Morrison,

Plaintiff,

Grantor

vs. ^{TO}

W. R. Sutherland,

Defendant.*

Grantee

Character of Instrument

Levy on Execution,

Date of Instrument

Date of Record

February 26, 1896

Book **55** *of Misc. Page* **155**

Consideration \$

Are Signatures Sealed ?

Are Signatures Properly Witnessed ?

Is Instrument Properly Acknowledged ?

Covenant if any

Description and Remarks

Execution and Sheriff's Certificate.

Date of Levy, February 25, 1896.

**Covers- Undivided 1/2 of all lots described in the caption
of this abstract.**

• 70BX7598 8 147

Continuation of Abstract of Title to the Lands Described in the Caption Herein

P. A. Braff,

Plaintiff,

Grantor

VS. ^{DO}

W. R. Sutherland,

Defendant.

Grantee

Character of Instrument

Levy on Execution,

Date of Instrument

Date of Record

February 26, 1896,

Book **55 of Misc. Page 157**

Consideration \$

Are Signatures Sealed?

Are Signatures Properly Witnessed?

Is Instrument Properly Acknowledged?

Covenant if any

Description and Remarks

Execution and Sheriff's Certificate.

Date of Levy, February 25, 1896.

Covers undivided 1/2 of all lots described in the caption of this abstract.

Continuation of Abstract of Title to the Lands Described in the Caption Hereto

P. A. Braff,

Plaintiff,

Grantor

VS.^{TO}

W. R. Sutherland,

Defendant.

Grantee

Character of Instrument

Levy on Execution,

Date of Instrument

Date of Record

February 26, 1896

Book **55** of **Misc.** Page **158**

Consideration \$

Are Signatures Sealed?

Are Signatures Properly Witnessed?

Is Instrument Properly Acknowledged?

Covenant if any

Description and Remarks

Execution and Sheriff's Certificate.

Date of Levy, February 25, 1896,

**Covers undivided 1/2 of all lots described in the caption
of this abstract.**

Continuation of Abstract of Title to the Lands Described in the Caption Herein

Wm. McCardle,

Plaintiff,

Grantor

VS.^{TD}

W. R. Sutherland,

Defendant,

Grantee

Character of Instrument

Levy on Execution,

Date of Instrument

Date of Record

February 26, 1896

Book **55** of Misc. Page **159**

Consideration \$

Are Signatures Sealed?

Are Signatures Properly Witnessed?

Is Instrument Properly Acknowledged?

Covenant if any

Description and Remarks

Execution and Sheriff's Certificate.

Date of Levy, February 25, 1896.

Covers undivided 1/2 of all lots described in the caption of this abstract.

Continuation of Abstract of Title to the Lands Described in the Caption Hereto

Frank Morrison,

Plaintiff,

Grantor

VS. ^{PG}

W. R. Sutherland,

Defendant,

Grantee

Character of Instrument

Levy on Execution,

Date of Instrument

Date of Record

February 28, 1896

Book **55** *of Misc. Page* **160**

Consideration \$

Are Signatures Sealed ?

Are Signatures Properly Witnessed ?

Is Instrument Properly Acknowledged ?

Covenant if any

Description and Remarks

Execution and Sheriff's Certificate.

Date of Levy, February 25, 1896.

**Covers undivided 1/2 of all lots described in the caption of
this abstract.**

Continuation of Abstract of Title to the Lands Described in the Caption Hereto

A. J. Cass and Frank Morrison,
Plaintiffs,

Grantor

VS. ^{TO}

W. B. Sutherland,

Defendant.

Grantee

Character of Instrument

Levy on Execution,

Date of Instrument

Date of Record

February 26, 1896

Book **55** of Misc. Page **161**

Consideration \$

Are Signatures Sealed?

Are Signatures Properly Witnessed?

Is Instrument Properly Acknowledged?

Covenant if any

Description and Remarks

Execution and Sheriff's Certificate .

Date of Levy, February 25, 1896.

**Covers undivided 1/2 of all lots described in the caption
of this abstract.**

Continuation of Abstract of Title to the Lands Described in the Caption Hereto

P. A. Braff,

Plaintiff,

Grantor

VS. ⁵⁰

W. R. Sutherland,

Defendant.

Grantee

Character of Instrument

Levy on Execution,

Date of Instrument

Date of Record

February 28, 1896

Book **55** of **Misc** Page **162**

Consideration \$

Are Signatures Sealed ?

Are Signatures Properly Witnessed ?

Is Instrument Properly Acknowledged ?

Covenant if any

Description and Remarks

Execution and Sheriff's Certificate.

Date of Levy, February 25, 1896;

**Covers undivided 1/2 of all lots described in the caption
of this abstract.**

Continuation of Abstract of Title to the Lands Described in the Caption Hereto

Wm. McCardle ,

Plaintiff,

Grantor

VS. ^{TQ}

W. R. Sutherland,

Defendant.

Grantee

Character of Instrument

Levy on Execution,

Date of Instrument

Date of Record

February 28, 1896

Book **55** *of Misc. Page* **163**

Consideration \$

Are Signatures Sealed ?

Are Signatures Properly Witnessed ?

Is Instrument Properly Acknowledged ?

Covenant if any

Description and Remarks

Execution and Sheriff's Certificate.

Date of Levy, February 25, 1896.

**Covers undivided 1/2 of all lots described in the caption of
this abstract.**

Continuation of Abstract of Title to the Lands Described in the Caption Hereto

P. A. Braff,

Plaintiff,

Grantor

VS. ^{DO}

W. R. Sutherland,

Defendant.

Grantee

Character of Instrument

Levy on Execution,

Date of Instrument

Date of Record

February 28, 1896

Book **55** *of Misc* *Page* **164**

Consideration \$

Are Signatures Sealed?

Are Signatures Properly Witnessed?

Is Instrument Properly Acknowledged?

Covenant if any

Description and Remarks

Execution and Sheriff's Certificate.

Date of Levy , February 25, 1896.

**Covers undivided 1/2 of all lots described in the caption of
this abstract.**

Continuation of Abstract of Title to the Lands Described in the Caption Hereto

E. J. Bowers,

Plaintiff,

VS. &

W. R. Sutherland,

Defendant.

Grantor

Grantee

Character of Instrument

Levy on Execution,

Date of Instrument

Date of Record

April 1, 1896

Book **55** *of Misc. Page* **169**

Consideration \$

Are Signatures Sealed ?

Are Signatures Properly Witnessed ?

Is Instrument Properly Acknowledged ?

Covenant if any

Description and Remarks

Execution and Sheriff's Certificate.

Date of Levy , April 1, 1896.

Covers undivided 1/2 of all lots described in the caption of this abstract.

READ ON INSTRUCTION

The above is an examination of the records in the office of the Clerk of Circuit Court, in and for Ashland County, Wisconsin.

TAX STATEMENT

Of unredeemed taxes affecting the title to the lands described in the Caption of this abstract as shown by the Tax Abstract in the County Clerk's office in and for Ashland County, Wisconsin.

DESCRIPTION	LOT	BLK	SALE OF	SALE OF	SALE OF	SALE OF	SALE OF	SALE OF	SALE OF	SALE OF
	S	T								
None.				None.				None.		

CERTIFICATE OF ABTRACTOR.

STATE OF WISCONSIN, }
COUNTY OF ASHLAND. } ss.

I hereby certify that the foregoing are true abstracts from all the entries of record, in the office of the Register of Deeds, in and for Ashland County, Wisconsin, and further, that there are no tax, judgments, mechanic's or other liens of record in said county that in any way affect the title to any of the lands described in the caption of this abstract, at this date, except as herein shown.

Dated at Ashland, Wisconsin, this 22nd day of November, 1902

E. J. Rendall

Abstractor of Titles.

ABSTRACT OF TITLE

— TO —

Block 25 and

Lot 1 Block 26

Ellis Division

Ashland

Entered in
R. I.
Rowbook
Filed 7-25-96
Envelope 128
Box 101

MADE FOR

This Indenture Witnesseth, That the undersigned of the County of

~~Milwaukee~~ and State of ~~Wisconsin~~, being the owner of the following described land, to-wit: Lots 14, 15, 16, 17, 18 and 19 block 36
and lots 1, 2 and 3 block 19 Ellis Division
City of Ashland.

located in the County of Ashland, State of Wisconsin

has requested the Wisconsin Central Railway Company to construct a spur tracks upon, over and across said property above described, substantially in the manner delineated in red upon the plat of said premises attached to this instrument and marked "Exhibit X," and hereby expressly made a part hereof; and the undersigned, in consideration thereof, hereby give and grant unto said Wisconsin Central Railway Company, its successors, lessees and assigns, full license and permission to forthwith enter into and upon and henceforth to occupy in perpetuity, free from the benefit of all exemption laws, a strip, piece, belt or parcel of land Seventeen (17) feet in width, for the construction, maintenance and operation of said track; and the undersigned hereby acknowledge that it has received full consideration for the foregoing grant. It is agreed that if and when the said Wisconsin Central Railway Company, its successors, lessees, or assigns shall have removed its track from said land, and shall have wholly and permanently abandoned the same, then and in that case rights of the above named licensee, its successors, lessees or assigns, in respect to such part of said land so abandoned shall absolutely determine.

As a moving consideration thereto, the undersigned for its heirs, personal representatives, successors and assigns, hereby expressly release said Wisconsin Central Railway Company, its successors, lessors, lessees, and assigns, of and from any and all demands, claims, rights of action, cost or expense, arising or to arise in any manner in whole or in part from loss or damage to any property owned by or in which said undersigned is interested, or in which it may permit now or hereafter, to be placed upon or along said spur track, and all injury or damage to any person or persons other than employees of said Company, from the negligent or other operation thereof by any person or corporation whatsoever, and hereby agree to save harmless and indemnify said Company, its successors, lessors, lessees and assigns therefrom.

Signed, sealed, executed and delivered this _____ day of _____ A. D., 1_____

In Presence of

John R. J. J. J. J.
W. A. Clark

John Schroeder Lumber Co
by John V. Schroeder (SEAL)
President
countersigned Augusta Schroeder (SEAL)
Secretary

(SEAL)

STATE OF _____ }
COUNTY OF _____ } SS. I, _____

a _____
in and for said County in the State aforesaid, do hereby certify, that

personally known to me to be the identical person described in and
whose name _____ subscribed to the foregoing instrument as
grantor _____ and who executed the same, appeared before me this day in
person and acknowledged to me that _____ signed, sealed and de-
livered said instrument as and that the same is _____ free and
voluntary act and deed for the uses and purposes therein set forth, includ-
ing the release and waiver of the right of homestead.

Given under my hand and _____ seal this _____ day of _____ A. D. 1907

STATE OF Wisconsin }
COUNTY OF Milwaukee } SS.

I, John R. Jmista
a Notary Public

REGISTERED DEEDS OFFICE, 105,
Milwaukee County, Wis.
Recorded for Deeds, the 27th day
of March, 1907, at 10:30 o'clock,
A. M., and duly returned to me
of Deeds on Page 162

John Schroeder
and Fred Schroeder to me
personally known to be the identical persons whose names are subscribed
to the foregoing instrument as President and Secretary, respectively, of

Fred Peterson
By Evelyn Peterson John Schroeder Lumber
By Secretary

_____ Company, the corporation described in and
that executed said instrument as grantor, appeared before me this day in
person, and who being by me duly sworn, did severally acknowledge
and say that they are respectively the President and Secretary of said

John Schroeder Lumber

_____ Company, and the seal affixed to the foregoing
instrument is the corporate seal of said Corporation, that they signed,
sealed and delivered the same in behalf of said corporation for the pur-
poses therein specified, by authority of its board of directors, and that said
instrument is the free act and deed of said Corporation.

Given under my hand and _____ seal this 27 day of October A. D., 1907

John R. Jmista
Notary Public

EASEMENT

John Schroeder
Lumber Company

WISCONSIN CENTRAL
RAILWAY COMPANY.

Register No. _____

REGISTER'S OFFICE,

Milwaukee County.

Recorded Oct 24 1907

at 9:30 o'clock A M., in

_____ of Deeds, page 167

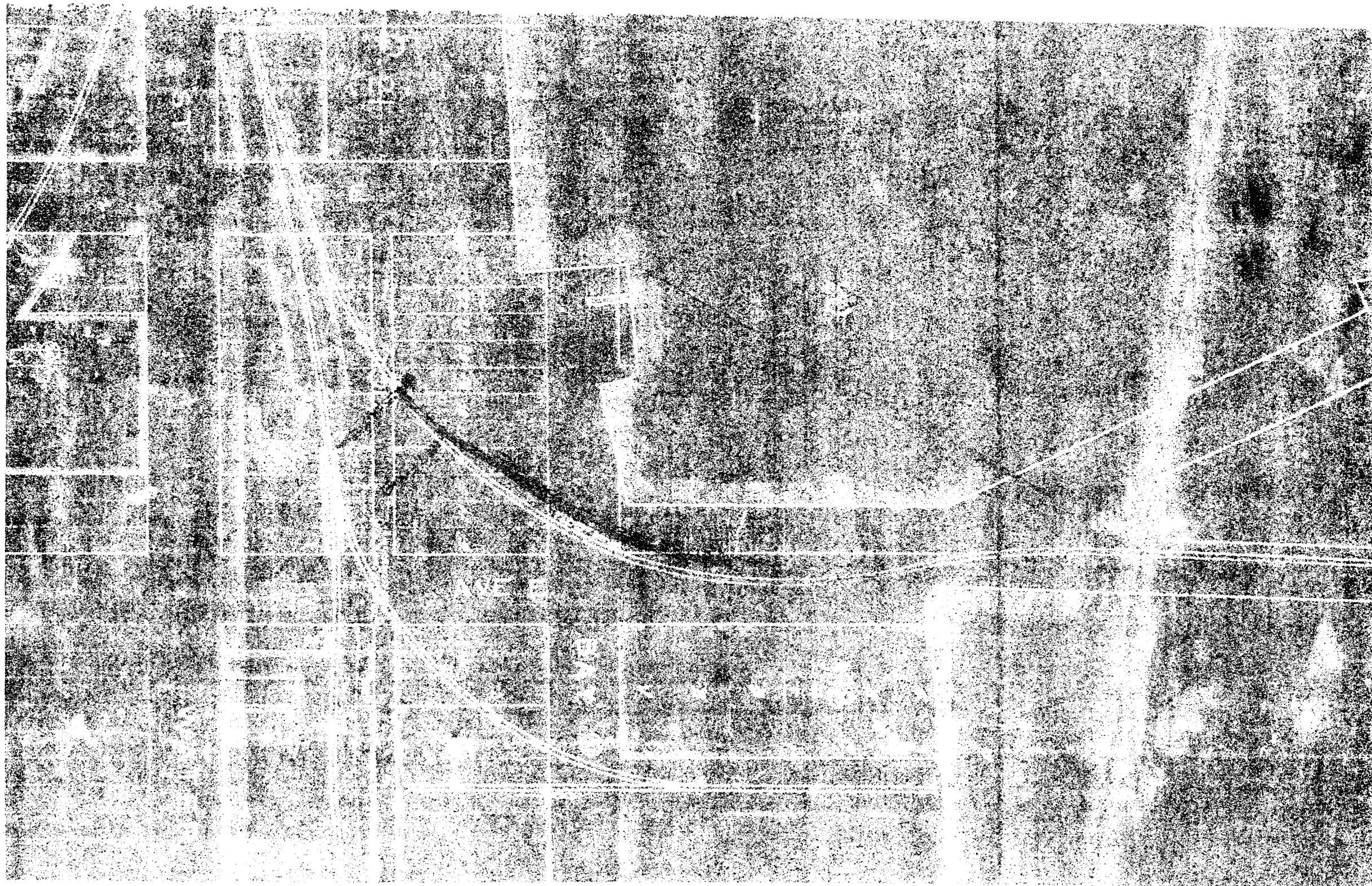
Fred Peterson

Register of Deeds.

Evelyn Peterson

Notary for later record

see other side.



This Indenture Witnesseth, That the undersigned of the County of
— Ashland — and State of — Wisconsin —, being the owner— of the
following described land, to-wit: All of Block 25, Lot 1 of Block 26,
and that portion of Lots 19-20-21-22-23 and 24 of
Block 33 which lie north of the right of way of the Wisconsin
Central Railroad, all in Ellis Division, City of Ashland.

located in the
County of — Ashland —, State of — Wisconsin —
has requested the Wisconsin Central Railroad Company
to construct a spur track upon, over and across said property above described, substantially in the
manner delineated in red upon the plat of said premises attached to this instrument and marked "Exhibit X," and
hereby expressly made a part hereof; and the undersigned, in consideration thereof, hereby give and grant unto
said Railroad Company,
its successors, lessees and assigns, full license and permission to forthwith enter into and upon and henceforth to
occupy in perpetuity, free from the benefit of all exemption laws, a strip, piece, belt or parcel of land Twenty-
five (25) feet in width, for the construction, maintenance and operation of said
track; and the undersigned hereby acknowledge that it has received full consideration for the
foregoing grant. It is agreed that if and when the said Railroad Company, its successors, lessees, or assigns shall have removed
its track from said land, and shall have wholly and permanently abandoned the same, then and in that case rights of the
above named licensee, its successors, lessees or assigns, in respect to such part of said land so abandoned shall absolutely
determine.

As a moving consideration thereto, the undersigned for itself, its heirs, personal representatives, successors
and assigns, hereby expressly release said Railroad Company, its successors, lessors, lessees and assigns,
and the Receivers, of and from any and all demands, claims, rights of action, cost or expense, arising or to arise in any
manner in whole or in part from loss or damage to any property owned by or in which said undersigned are
interested, or in which it may permit now or hereafter, to be placed upon or along said spur track, and
all injury or damage to any person or persons other than employees of said Company, from the negligent or other
operation thereof by any person or corporation whatsoever, and hereby agree to save harmless and indemnify said
Company, its successors, lessors, lessees and assigns and said Receivers therefrom.

In Presence of

H. E. Hazley
Thos B Gibson

Pope Lumber Co. (SEAL.)
By R. E. Pope Pres
H. G. Allen Sec'y (SEAL.)

STATE OF }
COUNTY OF } ss.

I,

a
in and for said County in the State aforesaid, do hereby certify, that

personally known to me to be the identical person..... described in and whose
name..... subscribed to the foregoing instrument as grantor..... and who
executed the same, appeared before me this day in person and acknowledged to me
that..... signed, sealed and delivered said instrument as and that the same
is..... free and voluntary act and deed for the uses and purposes therein
set forth, including the release and waiver of the right of homestead.

Given under my hand and seal this day of A. D., 189.....

STATE OF *Wisconsin* }
COUNTY OF *Ashland* } ss.

I, *Thos B Gibson*
a *Notary Public*

in and for ~~said County~~ in the State aforesaid, do hereby certify, that

RC Pope
and *Wm G Allen* to me
personally known to be the identical persons whose names are subscribed to the
foregoing instrument as President and Secretary, respectively, of.....

Pope Lumber

..... Company,
the corporation described in and that executed said instrument as grantor, appeared
before me this day in person, and who, being by me duly sworn, did severally
acknowledged and say, that they are respectively the President and Secretary
of said..... *Pope Lumber*

..... Company, and the seal
affixed to the foregoing instrument is the corporate seal of said Corporation, that
they signed, sealed and delivered the same in behalf of said corporation for the
purposes therein specified, by authority of its board of directors as, and that said
instrument is the free act and deed of said Corporation.

Given under my hand and seal this *28th* day of *January* A. D., 189*9*

Thos B Gibson
Notary Public, Wis.

EASEMENT

Pope Lumber Co.
Wisconsin Central
Railroad Company
29 Spur Ashland.

REGISTER'S OFFICE,
Ashland County, *Wis.*
28 day of *January*, 189*9*
5:30 o'clock, *P.* M., in
of Deeds, page *587*
D. Evans
Register of Deeds.

L. H. Macdonald

AVE E

WALTER

AVE D

AVE E

PLANNING MILL
S. C. PIPE & CO.

PLANNING MILL
S. C. PIPE & CO.

ON HILLDAVIS

DO

This Indenture Witnesseth, That the undersigned of the County of

Milwaukee and State of Wisconsin, being the owner S of the following described land, to-wit: Lots one (1), two (2), three (3), four (4), five (5), six (6), in Block twenty-five (25) and part of Lots fifteen (15), sixteen (16), seventeen (17), eighteen (18), nineteen (19), in Block thirty-three (33), Ellis Division, Ashland, together with the riparian rights appurtenant thereto

located in the
County of Ashland, State of Wisconsin
has S requested the Wisconsin Central Railway Company to construct a spur track upon, over and across said property above described, substantially in the manner delineated in red upon the plat of said premises attached to this instrument and marked "Exhibit X," and hereby expressly made a part hereof; and the undersigned, in consideration thereof, hereby give S and grant S unto said Wisconsin Central Railway Company, its successors, lessees and assigns, full license and permission to forthwith enter into and upon and henceforth to occupy in perpetuity, free from the benefit of all exemption laws, a strip, piece, belt or parcel of land seventeen (17) feet in width, for the construction, maintenance and operation of said track; and the undersigned hereby acknowledge S that it has S received full consideration for the foregoing grant. It is agreed that if and when the said Wisconsin Central Railway Company, its successors, lessees, or assigns shall have removed its track from said land, and shall have wholly and permanently abandoned the same, then and in that case rights of the above named licensee, its successors, lessees or assigns, in respect to such part of said land so abandoned shall absolutely determine.

As a moving consideration thereto, the undersigned for itself, its heirs, personal representatives, successors and assigns, hereby expressly release S said Wisconsin Central Railway Company, its successors, lessors, lessees, and assigns, of and from any and all demands, claims, rights of action, cost or expense, arising or to arise in any manner in whole or in part from loss or damage to any property owned by or in which said undersigned is interested, or in which it may permit now or hereafter, to be placed upon or along said spur track, and all injury or damage to any person or persons other than employees of said Company, from the negligent or other operation thereof by any person or corporation whatsoever, and hereby agree S to save harmless and indemnify said Company, its successors, lessors, lessees and assigns therefrom.

Signed, sealed, executed and delivered this 28th day of August A. D., 1905

In Presence of

Henry H. Schaefer

John R. Jernista
(Corporate Seal)

JOHN SCHROEDER LUMBER CO.

By John Schroeder (SEAL.)
President

Countersigned: _____ (SEAL.)

August Schroeder (SEAL.)
Secretary.

STATE OF _____ }
COUNTY OF _____ } ss. I, _____

a _____
in and for said County in the State aforesaid, do hereby certify, that

personally known to me to be the identical person _____ described in and
whose name _____ subscribed to the foregoing instrument as
grantor _____ and who executed the same, appeared before me this day in
person and acknowledged to me that _____ signed, sealed and de-
livered said instrument as and that the same is _____ free and
voluntary act and deed for the uses and purposes therein set forth, includ-
ing the release and waiver of the right of homestead.

Given under my hand and _____ seal this _____ day of _____ A. D., 1 _____

STATE OF Wisconsin }
COUNTY OF Milwaukee } ss. I, G. H. Ellis

a Notary Public

in and for said County in the State aforesaid, do hereby certify, that

John Schroeder
and Fred Peterson to me
personally known to be the identical persons whose names are subscribed
to the foregoing instrument as President and Secretary, respectively, of

Lumber Company, the corporation described in and
that executed said instrument as grantor, appeared before me this day in
person, and who, being by me duly sworn, did severally acknowledge
and say that they are respectively the President and Secretary of said

Lumber Company, and the seal affixed to the foregoing
instrument is the corporate seal of said Corporation, that they signed,
sealed and delivered the same in behalf of said corporation for the pur-
poses therein specified, by authority of its board of directors, and that
said instrument is the free act and deed of said Corporation.

Given under my hand and _____ seal this 28th day of August A. D., 1 905

G. H. Ellis
Notary Public
My Commission Expires Sept. 10, 1905

9.1.05
book 12
19-1-05
page 128 + 24893. ✓
101

EASEMENT

John Schroeder

Lumber Company

-TO-

WISCONSIN CENTRAL
RAILWAY COMPANY.

planing Mill Spur

Change in line and 400'

extension - Ashland

Register No. 1061
1061 REGISTER'S OFFICE.

Ashland County.

Recorded Aug. 30 1905

at 10 o'clock A. M., in

89 of Deeds, page 289.

Fred Peterson Register of Deeds.

Raytonia C. Peterson Deputy.

EXHIBIT X
STATE 12/00

This Indenture Witnesseth, That the undersigned of the County of

Milwaukee and State of Wisconsin, being the owner of the following described land, to-wit: Those parts of Block thirty-six (36) and of Lots one (1) and twenty-four (24) in Block thirty-seven (37) of Ellis Division in the City of Ashland and the wharves, docks and filled land adjacent thereto, which lie northerly of the present right of way of the Wisconsin Central Railway Company

located in the County of Ashland, State of Wisconsin

has requested the Wisconsin Central Railway Company to construct a spur track upon, over and across said property above described, substantially in the manner delineated in red upon the plat of said premises attached to this instrument and marked "Exhibit X," and hereby expressly made a part hereof; and the undersigned, in consideration thereof, hereby give s and grant s unto said Wisconsin Central Railway Company, its successors, lessees and assigns, full license and permission to forthwith enter into and upon and henceforth to occupy in perpetuity, free from the benefit of all exemption laws, a strip, piece, belt or parcel of land seventeen (17) feet in width, for the construction, maintenance and operation of said track; and the undersigned hereby acknowledge s that it has received full consideration for the foregoing grant. It is agreed that if and when the said Wisconsin Central Railway Company, its successors, lessees, or assigns shall have removed its track from said land, and shall have wholly and permanently abandoned the same, then and in that case rights of the above named licensee, its successors, lessees or assigns, in respect to such part of said land so abandoned shall absolutely determine.

As a moving consideration thereto, the undersigned for itself and its heirs, personal representatives, successors and assigns, hereby expressly release s said Wisconsin Central Railway Company, its successors, lessors, lessees, and assigns, of and from any and all demands, claims, rights of action, cost or expense, arising or to arise in any manner in whole or in part from loss or damage to any property owned by or in which said undersigned is interested, or in which it may permit now or hereafter, to be placed upon or along said spur track, and all injury or damage to any person or persons other than employees of said Company, from the negligent or other operation thereof by any person or corporation whatsoever, and hereby agree s to save harmless and indemnify said Company, its successors, lessors, lessees and assigns therefrom.

Signed, sealed, executed and delivered this _____ day of August A. D., 1906.

In Presence of

John R. Morris

L. H. Lewis

JOHN SCHROEDER LUMBER COMPANY.

_____(SEAL.)

By John C. Schroeder (SEAL.)
President.

Countersigned. Ray S. ... (SEAL.)
Secretary.

STATE OF _____ }
COUNTY OF _____ } ss. I, _____

a _____
in and for said County in the State aforesaid, do hereby certify, that

_____ personally known to me to be the identical person described in and whose name _____ subscribed to the foregoing instrument as grantor and who executed the same, appeared before me this day in person and acknowledged to me that _____ signed, sealed and delivered said instrument as and that the same is _____ free and voluntary act and deed for the uses and purposes therein set forth, including the release and waiver of the right of homestead.

Given under my hand and _____ seal this _____ day of _____ A. D., 1 _____

STATE OF Wisconsin }
COUNTY OF Milwaukee } ss. I, C. K. Ellis

a Notary Public

in and for said County in the State aforesaid, do hereby certify, that

John Schroeder
and August Schroeder to me

personally known to be the identical persons whose names are subscribed to the foregoing instrument as President and Secretary, respectively, of John Schroeder Lumber

_____ Company, the corporation described in and that executed said instrument as grantor, appeared before me this day in person, and who, being by me duly sworn, did severally acknowledge and say that they are respectively the President and Secretary of said John Schroeder Lumber

_____ Company, and the seal affixed to the foregoing instrument is the corporate seal of said Corporation, that they signed, sealed and delivered the same in behalf of said corporation for the purposes therein specified, by authority of its board of directors, and that said instrument is the free act and deed of said Corporation.

Given under my hand and _____ seal this 7 day of August A. D., 1906.

L. H. Ellis Notary Public
Milwaukee Wis.

My commission expires _____ 1906

11-9-06
Book 127
Page 727435
Envelope 138
Box 101
EASEMENT

John Schroeder & Co.
-TO-

WISCONSIN CENTRAL
RAILWAY COMPANY.

Blk 36 Lots 1 & 24 Blk 37

Ellis Division Ashland.

see 10th E 101
Entered in _____
R. I. _____
Register No. _____
Filed _____
Envelope _____
Box _____

REGISTER'S OFFICE.

Ashland County.

Recorded Aug. 16 1906
at 4 30 o'clock P. M., in

89 of Deeds, page 57

Fred Peterson
Register of Deeds.
Franklin Peterson

Report

EXHIBIT X

DATE 8-20-71

40145 1

